206, of Sedalia, Mo., and of St. Louis Mailers' Union, No. 3, of St. Louis, against the passage of House bill 5777 and Senate bill 2894—to the Committee on Patents.

Also, resolutions of the Chicago Board of Trade, favoring House bill 8337 and Senate bill 3575, to regulate commerce—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the Trades League of Philadelphia, favoring the authorizing of corporations, etc., to improve commercial channels at their own expense—to the Committee on Rivers and Harbors.

By Mr. THOMAS of Iowa: Resolutions of Brotherhood of Railroad Trainmen of Clinton, Iowa, urging the passage of the Hoar-Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. TOMPKINS of New York: Petition of Local Union No. 46, of Nyack, N. Y., for an extension of the Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. VREELAND: Resolutions of Painters and Decorators' Union of Dunkirk, N. Y., favoring an educational test for immigrants—to the Committee on Immigration and Naturalization.

Also, resolutions of Painters and Decorators' Union of Dunkirk, N. Y., favoring the exclusion of Chinese laborers from the United States and their insular possessions—to the Committee on Foreign Affairs.

By Mr. WILLIAMS of Illinois: Paper to accompany House bill granting a pension to Rebecca Conner—to the Committee on Invalid Pensions.

By Mr. WOODS: Resolutions of Grass Valley Miners' Union, No. 90, and Bodie Miners' Union, No. 61, State of California, favoring restricted immigration—to the Committee on Immigration and Naturalization.

By Mr. YOUNG: Petition of Burnham, Williams & Co., Philadelphia, in support of House bill No. 11308—to the Committee on Ways and Means.

Also, resolutions of the Trades League of Philadelphia, Pa., favoring an amendment to the river and harbor bill—to the Committee on Rivers and Harbors.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 22, 1902.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read, corrected, and approved.

LIGHT-HOUSES AT MOUTH OF BOSTON HARBOR.

Mr. LOVERING. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

A bill (S. 3865) to establish light-houses at the mouth of Boston Harbor to mark the entrance to the new Broad Sound Channel.

Be it enacted, etc., That there shall be established by the Secretary of the Treasury a first-order light and fog signal at the Northeast Grave, on a granite tower, built in the most substantial and secure manner and of sufficient height to allow the lantern a focal plane of 100 feet above high water, to mark the entrance to the new Broad Sound Channel, Boston Harbor, at a cost not to exceed $188,000; for the establishment of two range lights on Lovells Island, at the mouth of Boston Harbor, the rear light to be of the fourth order, on a tower about 45 feet above high water, and the front light to be of the fifth order, on a tower about 25 feet above high water, at a cost not to exceed $10,000; and for the establishment of two range lights on Spectacle Island, mouth of Boston Harbor, the rear light to be of the fourth order, upon a tower about 55 feet above high water, and the front light to be of the fifth order, upon a tower about 30 feet above high water, at a cost not to exceed $13,000, the entire appropriation for the five lights above mentioned not to exceed the sum of $211,000.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. LOVERING. Mr. Speaker, this bill provides for the construction of a light-house near the entrance to the new 30-foot channel leading from Broad Sound to Presidents Roads, in Boston Harbor. This channel is nearly completed, and it is expected that it will be open for transit this fall.

The light is to be built on what is known as the Northeast Grave. The whole course from Massachusetts Bay to and through the channel is beset with dangers on all sides. Ledges seen and unseen are only avoided by the most careful navigation. This light is absolutely indispensable at this point. To properly utilize the calm weather of the coming summer to build this light-house necessitates prompt action on the part of Congress.

The bill also provides for range lights on Lovells Island and on Spectacle, to insure the safe passage through the channel which is necessarily somewhat devious, and only 1,200 feet wide.

This bill is identical with H. R. 11472, introduced in the House by my colleague, Mr. CONRY of Massachusetts.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LOVERING. Mr. Speaker, I move that the House bill 11472, on the same subject, lie on the table.

The SPEAKER. Without objection, the House bill similar to the one just passed will lie on the table.

There was no objection.

On motion of Mr. LOVERING, a motion to reconsider the vote by which the bill was passed was laid on the table.

MONUMENT TO WILLIAM E. SHIPP AT CHARLOTTE, N. C.

Mr. BELLAMY. Mr. Speaker, I ask unanimous consent to call up for present consideration House joint resolution 155.

The Clerk read as follows:

Joint resolution (H. J. Res. 155) granting permission for the erection of a monument in Charlotte, N. C., for the ornamentation of the public grounds in that city.

Resolved, etc., That permission be, and the same is hereby, granted the Shipp Monumental Committee, of the State of North Carolina, to erect a monument in honor of the late William E. Shipp on the premises upon which the public building and the United States mint are located in the city of Charlotte and State of North Carolina; said monument to be located under the supervision and direction of the Secretary of the National Treasury and the chairman of the Shipp Monumental Committee; said monument to be presented to the people of the United States by the Shipp Monumental Committee.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. MERCER. Mr. Speaker, I desire to ask the gentleman the size or area of the grounds referred to in that resolution.

Mr. BELLAMY. Mr. Speaker, this resolution simply asks the United States Government to permit a monument to be built on the public grounds in the city of Charlotte. I do not suppose it will take 8 or 10 feet square. It is a small monument the people of Charlotte, N. C., desire to have erected in memory of William E. Shipp, who was so highly complimented by General Wheeler for his gallantry at the charge of Santiago Heights.

Mr. MERCER. I am not discussing the merits of the proposition.

Mr. BELLAMY. Oh, the reservation. I suppose from my knowledge of it, an acre; a large piece of ground. I am corrected by some of my North Carolina friends, and should reply it is about an acre.

Mr. MERCER. About an acre.

Mr. BELLAMY. Yes, sir.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the resolution was agreed to.

On motion of Mr. BELLAMY, a motion to reconsider the vote by which the joint resolution was agreed to was laid on the table.

LOAN OF TENTS TO KNIGHTS OF PYTHIAS ENCAMPMENT.

Mr. LOUD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. 11839) authorizing the Secretary of War to loan certain tents for use at Knights of Phythias encampment to be held at San Francisco, Cal.:

Be it enacted, etc., That the Secretary of War be, and is hereby, authorized to loan, at his discretion, to committee of citizens in charge of arrangements for the encampment of the Uniform Rank, Knights of Pythias, to be held in San Francisco, Cal., August 10 to 20, 1902, and deliver to Charles L. Patton, president and executive director of said committee, 1,000 wall tents, size 10 by 12, with poles, ridges, and pins for each: *Provided*, That no expense shall be caused the United States Government by the delivery and return of such property; the same to be delivered to said committee designated above at such time prior to the date of said encampment as may be agreed upon by the Secretary of War and said Charles L. Patton, the number of tents so loaned not to exceed 1,000.

The amendment recommended by the committee was read, as follows:

At the end of line 3, page 2, add the following:

"*And provided further*, That the Secretary of War shall, before delivering such property, take from said Charles L. Patton a good and sufficient bond for the safe return of said property in good order and condition; and the whole without expense to the United States."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. LOUD, a motion to reconsider the vote by which the bill was passed was laid on the table.

LIFE-SAVING STATION AT OCRACOKE ISLAND, NORTH CAROLINA.

Mr. SMALL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. 10363) to authorize the establishment of a life-saving station on Ocracoke Island, on the coast of North Carolina.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to establish a life-saving station on Ocracoke Island, near Ocracoke Inlet, on the coast of North Carolina, at such point as the General Superintendent of the Life-Saving Service may recommend.

SEC. 2. That the character of the equipments and appliances of the station and the station building shall be determined by the General Superintendent of the Life-Saving Service.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. SMALL, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE OVER NEUSE RIVER, NORTH CAROLINA.

Mr. CLAUDE KITCHIN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. 12093) to authorize the construction of a bridge across the Neuse River at or near Kinston, N. C.

The bill was read at length.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. CLAUDE KITCHIN, a motion to reconsider the vote by which the bill was passed was laid on the table.

CONTESTED-ELECTION CASE—SPEARS AGAINST BURNETT.

Mr. POWERS of Maine. Mr. Speaker, I move that the House do now take up the report 624, the contested-election case of Spears against Burnett.

The SPEAKER. The gentleman from Maine calls up the privileged report in the election case, which will be read.

The Clerk read as follows:

Resolved, That N. B. Spears was not elected Representative to the Fifty-seventh Congress from the Seventh district of Alabama and is not entitled to a seat therein.

Resolved, That John L. Burnett was elected a Representative to the Fifty-seventh Congress from the Seventh district of Alabama and is entitled to retain his seat therein.

Mr. POWERS of Maine. Mr. Speaker, the Committee on Elections carefully considered this case and listened to the argument of counsel. While the Republican members of the committee found some things that they could not commend, we were satisfied that there were no such number of illegal or improper votes cast for the contestee as would change the result, and therefore the committee have unanimously reported the resolutions which have been read. I now move that the same be adopted.

The SPEAKER. The question is on agreeing to the resolutions.

The question was taken; and the resolutions were agreed to.

On motion of Mr. POWERS of Maine, a motion to reconsider the vote by which the resolutions were agreed to was laid on the table.

CONTESTED-ELECTION CASE—MOSS AGAINST RHEA.

Mr. MANN. Mr. Speaker, I call up the privileged report on the House resolution No. 148, reported from Committee on Elections No. 1.

The Clerk read as follows:

Resolved, That John S. Rhea was not elected a member of the Fifty-seventh Congress from the Third Congressional district of the State of Kentucky and is not entitled to a seat therein.

Resolved, That J. McKenzie Moss was elected a member of the Fifty-seventh Congress from the Third Congressional district of the State of Kentucky and is entitled to a seat therein.

Mr. MANN. Mr. Speaker, I yield to the gentleman from Mississippi, who desires to have read a substitute resolution.

Mr. FOX. Mr. Speaker, I offer the following resolution as a substitute, which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That J. McKenzie Moss was not elected a member of the Fifty-seventh Congress from the Third Congressional district of Kentucky and is not entitled to a seat therein.

Resolved, That John S. Rhea was elected a member of the Fifty-seventh Congress from the Third Congressional district of the State of Kentucky and is entitled to a seat therein.

Mr. MANN. Mr. Speaker, I understand that the gentleman from Mississippi desires to ask unanimous consent that the substitute resolutions may be considered as pending. To that I have no objection.

The SPEAKER. Without objection, the substitute resolutions will be considered as pending.

There was no objection.

REPRINT OF RIVER AND HARBOR BILL.

Mr. MANN. Mr. Speaker, I yield for a moment to the gentleman from Ohio.

Mr. BURTON. Mr. Speaker, I ask unanimous consent that 1,000 copies of the river and harbor bill, passed yesterday by the House, be printed.

Mr. RICHARDSON of Tennessee. I think it would be well, Mr. Speaker, to settle in the order where they shall be placed for distribution.

Mr. BURTON. I take it that they will be in the document room.

Mr. RICHARDSON of Tennessee. Not unless you make the order special.

Mr. BURTON. I have no preference of my own. The immediate object of this request is that the Senate committee may have copies before it so that they may take up the consideration of the bill promptly.

Mr. RICHARDSON of Tennessee. They had better go to the document room, then.

Mr. BURTON. I will ask that they go to the document room.

The SPEAKER. The gentleman from Ohio couples with that the request that they go to the document room.

Mr. RICHARDSON of Tennessee. I suggest, Mr. Speaker, if the gentleman from Ohio will give me his attention, that some of the gentlemen around me think that the number had better be increased to 1,500 copies. There is quite a demand for the bill.

Mr. BURTON. I will modify my request, Mr. Speaker, and ask that the number be 1,500.

The SPEAKER. The request now made by the gentleman from Ohio is that 1,500 copies of the river and harbor bill be printed for the use of the House, the documents to be sent to the document room. Is there objection? [After a pause.] The Chair hears none.

CONTESTED-ELECTION CASE—MOSS AGAINST RHEA.

Mr. MANN. Mr. Speaker, I ask unanimous consent that debate upon the pending resolution may continue for eight hours without interfering with District of Columbia business on Monday, and that at the end of eight hours' debate the previous question shall be considered as ordered upon the resolution and pending substitute.

The SPEAKER. The gentleman from Illinois asks unanimous consent that general debate on the pending election case shall continue for eight hours, not to interfere with District of Columbia day, which is on Monday next, and that at the end of the eight hours the previous question shall be considered as ordered upon the original resolution and upon the substitute.

Mr. FOX. Mr. Speaker, coupled with that I think it is conceded that the vote will not be taken until Tuesday.

Mr. MANN. That is the understanding, and that would be the result that the vote would not be taken until Tuesday.

The SPEAKER. Does the gentleman desire to couple that with the suggestion of the gentleman from Mississippi?

Mr. MANN. I do.

The SPEAKER. And coupled with that request that the vote will not be taken until Tuesday.

Mr. RICHARDSON of Tennessee. There ought to be a further agreement that the time shall be equally divided.

The SPEAKER. That will necessarily follow. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. MANN. Now, Mr. Speaker, I ask unanimous consent that the time be equally divided, to be controlled by the gentleman from Mississippi [Mr. FOX] and myself.

The SPEAKER. The gentleman from Illinois asks further unanimous consent that the eight hours be controlled by himself and the gentleman from Mississippi [Mr. FOX]. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, it is never a pleasant duty to perform to attempt to remove from a seat on the floor of this body any person who has taken his seat. The Committee on Elections No. 1 has had no occasion for personal or political feeling either in favor of the contestant or against the contestee. This is the third term of Congress during which I have been compelled to do duty on that committee, and although it is a popular impression throughout the country, and often in legislative bodies themselves, that a committee on elections acts wholly from a partisan standpoint and solely for the purpose of protecting "our rascals," as the expression is sometimes used, I deem it proper to call the attention of the House to the reports which this committee has made upon election cases during the last three Congresses.

In the Fifty-fifth Congress there was referred to this committee seven contested-election cases. Three of these cases were abandoned, so that hearings were not had before the committee. In one of the cases—that of Aldrich against Plowman—the committee reported in favor of the Republican contestant and he was seated.

In three cases which were contested before the committee the committee reported in favor of the Democratic contestees. One of those cases was the case of Goodwyn *v.* Brewer—a hot contest, where the Republican members of the committee decided in favor of the Democratic contestee.

Another case was that of Crowe *v.* Underwood, from Alabama, where the committee again decided in favor of the contestee; and I have always been exceedingly pleased that we could find in that way since I have become better acquainted with the gentleman himself. In one of the cases then pending before the committee, the contest was from the same district, with the same contestee as the present case, that of Hunter *v.* Rhea; and, although in the Hunter case Mr. Hunter had been appointed to an office abroad,

there came before the committee from Kentucky some of its most eminent lawyers and Republican statesmen, who urged the committee, upon the facts of the case, to find that Mr. Rhea was not entitled to the seat. But the committee then, because the case favored upon its merits Mr. Rhea, decided in his favor, without regard to the partisanship of the case.

In the Fifty-sixth Congress there were referred to this committee four contested-election cases. In one of those cases the committee decided in favor of the Republican contestant, Mr. Aldrich, who was seated from the district in Alabama. In one of the cases, which was from Kentucky, the committee decided in favor of the contestee, Mr. Turner, and against Judge Evans, the Republican contestant, who meanwhile had been appointed judge, but insisted that the committee should decide Mr. Turner was not elected. In one of the cases Mr. Davidson, of Kentucky, was the contestant, and Mr. Gilbert, my friend from Kentucky, who sits near me, was the contestee; and the committee again decided in favor of the contestee on the merits of the case.

In the most bitter case, I think, that has been before us—at least since I have been a member—we decided in favor of the Democratic contestee. I refer to the case of General Walker, the Republican contestant, against our friend Mr. Rhea of Virginia who now has a seat on this floor. If there ever was a case in which there was a chance for partisanship, it was that case. In that case for three weeks the committee sat and heard arguments upon the facts in the record, and at the end of that time, purely in the spirit of nonpartisan fairness, it decided in favor of the contestee.

There have been three cases before the committee at this Congress. The House has just passed a resolution favoring the seating of Mr. Burnett, of Alabama, although the contestant in that case, a Republican, urged before the committee, with all the force that he and his friends could command, that there was fraud in the case, and that the contestant, Mr. Spears, was fairly elected. But we decided, not in the spirit of partisanship, but in the spirit of fairness, that Mr. Burnett was fairly elected to the seat he occupies. In one of the cases at this session of Congress referred to us we have decided that neither the contestant nor the contestee is entitled to the seat.

I know it will be charged that in this particular case now pending before the House the committee has decided because of a bias. It is sometimes asked why in these cases the minority does not agree with the majority where the committee reports in favor of unseating the member. I have always taken the position myself, Mr. Speaker, that in a contested-election case, where the proposition is to unseat a member, the minority occupy the position rather of attorneys than judges, while the majority of the committee occupy the position of judges and not of attorneys, and that when the majority of the committee has decided in favor of unseating the member it is the duty of the minority to see that the question is properly argued in the House by making a minority report, so that no man can be turned out of his seat on the floor without an opportunity of having his case heard before the body which should act upon it.

So much for the record of the committee. In the case now before the House we have not determined it upon the basis of a fraudulent election. We have determined this case upon very simple grounds. We recommend to you the unseating of Mr. Rhea and the seating of Mr. Moss because Mr. Moss received, without question, more votes and Mr. Rhea received less votes.

At the outset of this case we were met with the proposition on behalf of the contestant that on the undisputed ballot he had received a majority of the votes. It seems that in the State of Kentucky the law provides that where the judges of election have any doubt with reference to the validity of a particular ballot, the ballot is preserved and returned to the canvassing board as a questioned or rejected ballot; and in this case the contestant claims that if these ballots were counted, as provided by law, where they were clearly subject to be counted, he would be elected on the face of the ballots; and the contestee claimed otherwise.

It happens that in the city of Bowling Green, Ky., there are six election precincts. In one of these 112 ballots were returned as questioned or rejected ballots; in other precincts various numbers; in Electric Light precinct 100 ballots were returned as questioned or rejected ballots, and the question before the committee was, as the question before the House now is, whether these ballots should be counted at all, and, second, whether if they were counted and considered the result would elect Mr. Moss.

I have here on my desk the original ballots, which I shall be glad to have members of the House examine. Under the law of Kentucky, which is the Australian ballot law, the marking of the ballot is made, ordinarily, by the use of a stencil stamp; and it happened that in this city and other places in the district the stencil stamp, which received its ink from an ink pad, was surcharged with ink from the ink pad, and when stamped upon the ballot and the ballot folded over, made a second impression upon the ballot.

It is as plainly to be seen as anything can be; it requires only the inspection of the eye to determine that the second mark upon the ballot is simply a reprint caused by the folding of the ballot by the voter over the original marking upon the ballot. It is perfectly evident that the second mark on the ballot was not put there for the purpose of identifying the ballot for fraudulent purposes, and it is perfectly evident that the second mark on the ballot was not made by the original stencil stamp. In some cases it was impossible for the committee to determine which was the original mark and which was the imprinted mark, and in those cases or where there seemed to be any doubt to the committee whatever we did not count the ballot.

Now, the law of Kentucky provides for the marking of these stamps by stencil. Gentlemen will notice that some of them are marked with a stencil cross and some of them are marked with the butt end of the stencil. The law says they shall be marked with a stencil cross, but the supreme court of Kentucky has decided that they may be marked with the butt end of the stencil, and when so marked in any way they shall be counted as valid ballots.

Mr. THAYER. How many were there of those you were in doubt about that you did not pass upon?

Mr. MANN. In the Electric Light precinct, which is one precinct, there were 7 ballots marked in the Republican circle and one other circle which we did not count, 4 ballots marked in the Democratic circle and another circle which we did not count. There were other ballots scattered from other different precincts, but, as a rule, the majority of the ballots which we did not count were marked in the Republican circle as one of the circles and not in the Democratic circle; so that by refusing to count those we did not give any advantage to the contestant, but gave an advantage to the contestee.

Now, Mr. Speaker, when we were determining this case the committee first, without determining whether the ballots should be counted as valid ballots or not, because there might be a difference as to one precinct or another precinct, appointed a subcommittee to examine the ballots and report upon the ballots from the various precincts which are in the record. That subcommittee called together the contestee, the contestant, and all the members of the committee, when the principal ballots in the case were counted—those from Warren County—and as each ballot was examined by all of these members who chose to look at it, a dictated statement was made to a stenographer, so that we all, or both sides, had a complete description of these ballots as they were in the record without controversy.

Subsequently the gentleman from Maine [Mr. POWERS] and myself, who were the Republican members of the subcommittee, again went over these ballots. Subsequently, I think, Mr. POWERS went over them by himself, I know that I have been over these ballots two or three or more times, making minutes, to discover if there could be any question, by examining the particular ballot at different times, as to which was the original stencil mark and which was the imprint. For myself, in reference to a case of this sort, I may say that until the full statement of my opinion upon each of these cases—each of these precincts—had been footed up by my secretary, I never knew whether my conclusion seated the contestant or the contestee, the case was so close; because, in the first place, I may say that the contestee upon the face of the returns had a majority of 156 in a vote of nearly 40,000.

Upon the vote, as we make it in the House here, where we only count what we consider the undisputed result, we give the contestant a majority of only 21. It was so close that I was not willing to permit myself to be subject to the political bias of partisanship in deciding upon the question as to whether the particular ballot or the ballot from the particular precinct should be counted; and as I went through these ballots writing an opinion for myself upon the ballots from each precinct in question, determining in my own mind whether the ballots should be counted, and if so how many should be counted, I never knew until this had all been footed up by my secretary what the result would be; whether it would give Mr. Moss a majority or continue a majority for Mr. Rhea.

Various members of the House have now examined ballots which were returned from the Electric Light precinct No. 20, in Warren County, and I laid those ballots particularly open, because the minority of the committee in their minority report laid particular stress upon this particular precinct. In addition, Mr. Speaker, to the ballots which bear the impress, I desire to call the attention of the members of the House to another set of ballots which were rejected, and these last were all rejected in one precinct. When they went to count the ballots in this precinct, which is Police Court precinct No. 21, in Warren County, the clerk of the election called the attention of the judges of the election to a number of little pencil marks upon the ballot. These

pencil marks are all different in shape, located generally in the upper right-hand corner of the ballot, but sometimes on other portions of the ballot.

They are of different styles, evidently all made with the same kind of a lead pencil—a soft, thick lead pencil—and usually a little mark, less than a quarter of an inch in length, probably placed there, undoubtedly placed there, either by accident or by design, by the election clerk himself, who called attention to them; and because these marks were upon the ballots the judges returned them as rejected.

I do not criticise the judges of election for doing this. The law forbids a ballot to be counted which has upon it a mark placed there by the voter for the purpose of fraudulent identification; and it may be very proper that the judges of election in deciding a matter of this sort offhand should say, "We have doubt whether these ballots should be rejected or counted, and we will send them up where they can be considered in proper order by a proper body."

This precinct, where these ballots are marked with a pencil, is the only precinct where we lay any stress on claims whatever upon the question of fraud; but it is perfectly patent that in this precinct the clerk of election committed fraud by making these marks upon the ballots.

Mr. FOX. I should like to interrupt the gentleman.

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from Mississippi?

Mr. MANN. I do.

Mr. FOX. You will agree with me that there is no testimony as to who placed the marks on the ballots?

Mr. MANN. I will agree that there is no testimony as to who placed the marks upon the ballots, although the effort was made in the testimony on behalf of the contestant to show that the clerk of election did it. I do not think the evidence proves that fact. I do not think it is material as to who placed the marks upon the ballots.

What are the facts in the case? Under the Kentucky law there are two judges of election, a clerk, and a sheriff. The clerk of election handles the ballots; the clerk of election gives out the ballots to the voters; the clerk of election writes his name upon the back of each ballot as it is given out; the clerk of election has the ballots under his hand, with a pencil in his fingers, and in this case we must either presume that the clerk of election made these marks or that they were made for the purpose of fraudulent identification, and anybody who will look at the ballots can see that the marks are not made in such a way as to identify them at all.

Mr. HEMENWAY. There are Democratic ballots so marked, are there?

Mr. MANN. There were several Democratic ballots so marked.

Mr. HEMENWAY. Are they given credit for them?

Mr. MANN. They are not. They were all rejected in the record. Of course we have nothing but the rejected ballots before us.

Now, the law of Kentucky provides also that there shall be two stubs to the ballot, one on each end. Gentlemen will notice that on all of these ballots there is something torn off from each side. The ballots are sent out to the election precincts in a book form. There is a stub at the upper end of the ballot, and when the voter comes in to vote the clerk of election writes the voter's name, his residence, and the number of the ballot upon the proper stub of the ballot.

He also writes the voter's name and the number of the ballot upon the lower stub of the ballot. I speak of it as the "lower" stub. These ballots were illegally printed by a Democratic election commissioner, in violation of the law. The stubs should have been, one at the upper end of the ballot and the other at the lower end.

The voter then takes the ballot into the booth and marks it, folds it up, and returns it to the judge of election or hands it to one of the judges of election, who tears off the lower stub of the ballot, opens the stub, identifies the voter, and then deposits the ballot in the ballot box. I am not sure but that in this respect it is the most perfect election law I have ever seen.

In the city of Bowling Green—and this is a matter which was not dwelt upon in the contest before us—every ballot was printed illegally by the Democratic election commissioner. And I may say one of the tribulations and trials which a committee on elections has to undergo is that very seldom is an election case properly presented before us. The minority of this committee, in their minority report, quote certain sections of the Kentucky election law, although those sections had been repealed before the election was held and although the election was held under a subsequent act. Yet in the briefs presented to us, both on the part of the contestant and contestee, the matter is never referred to that a new election law was adopted only eighteen or twenty days before the election under which it was held. The brief of the contestee quotes the election law of the State of Kentucky, although that law had been repealed and the election was not held under it.

Now, the law which was passed in October, 1900, just before the election was held, provided that these ballots should be so printed that the stubs should be one at the upper end of the ballot and one at the lower end of the ballot, and not at the side of the ballot. We lay no stress upon this fact, except that this illegal printing of the ballots, in the form in which they were, by one of the Democratic commissioners of election in that county, who was a printer, is the cause of folding these ballots in such a way that the second imprint upon the ballot appears in another circle at the head of the ticket. If the ballots had been properly printed they would not have been folded as they were, so as to leave a doubt on 112 ballots in one precinct, on 100 ballots in another precinct, and on a large number in various other precincts.

This seems plain enough, and no doubt members of the House say, "Why, if that is the case, can there be any question about the results? Where does the contest come in?" I may say to you that the question is principally one of identification of ballots. The Kentucky law provided—the old law—that a ballot rejected or a questioned ballot should be returned in a sealed envelope with the election returns. Under the law as it existed prior to October, 1900, the ballots which were counted and not questioned were destroyed immediately after being counted.

Ballots which were not used were destroyed immediately after being counted. Ballots which were rejected or questioned were directed to be returned in sealed envelopes with the election returns. The act of October, 1900, passed a few days before this election was held, provided that the ballots counted and not questioned should be sealed up and returned in a sealed envelope, and sent inside of the ballot box to the county clerk; that the ballots which were rejected should be sealed in another envelope, in a linen envelope, sealed with sealing wax, with the seal of the county impressed upon the wax, with the names of the judges written across the flap, and that they should be returned to the county clerk as a part of the election returns.

The law also provides that judges may count ballots and return them as questioned ballots, so that the judges have the right to reject a ballot which is a questioned ballot and to return a ballot as questioned which has been questioned. The law provides that the judges shall return with these ballots a true statement showing whether they have or have not been counted, and if counted, for whom.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. MANN. Certainly.

Mr. THAYER. As I understand, you have here before you all the ballots that were thrown out in the whole district. Am I correct about that?

Mr. SMITH of Kentucky. Not thrown out.

Mr. THAYER. Not counted?

Mr. MANN. I do not think they are all here. I will say to the gentleman from Massachusetts that the ballots were all referred to in the evidence, but they were not all offered as exhibits, because of the fact that in some cases there was no question that the ballots were properly rejected.

Mr. THAYER. Now, as I understand, some of these rejected ballots have been counted for either one of these parties. Have you got those that you threw out and did not count for either? Have you got the number that you did not count for either here?

Mr. MANN. They are all here. We have the entire record here.

Mr. THAYER. Have you, by themselves, those that you did not count for either party?

Mr. MANN. It is perfectly evident that we have not, for all these ballots are bound by the Clerk of the House in these books. I would be very glad to show the gentleman some of the ballots in the record which we did not count.

Mr. THAYER. I think it being so close we ought to scrutinize each one of these ballots, and each member determine for himself whether it should be counted for either of the parties or not.

Mr. MANN. Why, of course, that is the privilege of the members of the House, and I would be very glad, indeed, to allow everybody else to examine these ballots for himself. I know that I spent three or four weeks of solid work in this case, and I am perfectly willing that the gentleman from Massachusetts should take these ballots home with him and take the printed record and investigate all of these ballots. If he so desires it would be a pleasure for me to afford him an opportunity.

Mr. THAYER. I did not know but what the committee had done so, and that it could be easily referred to.

Mr. MANN. If the gentleman will read the report of the majority of the committee he will find the ballots referred to particularly from each precinct and a description given of every ballot which we count, and every ballot in those precincts which we do not count, and the reason for it.

Mr. THAYER. We might be better satisfied if we inspected

them and came to our own conclusion. That is the point of my inquiry.

Mr. MANN. The ballots are practically all here for inspection, Mr. Speaker. The gentleman has been here for some time. If he finds an objection to the character of the ballots on inspection, he has the right to make that objection known. There is practically no difference about the character of the marks upon the ballots. It is true that a particular ballot might have a little stronger imprint than another, but the character of the ballot is the same through the district.

Now, Mr. Speaker, the reason they give in this case for not wishing to count these ballots is that under a decision of the supreme court of Kentucky they claim the ballots are not sufficiently identified. In a case in the Kentucky court of appeals it was decided in reference to these rejected ballots that they must be sealed up properly and accompanied with a proper true statement. And although this language was not necessary to the opinion of the supreme court in that case, we claim that we do not conflict with it in any way whatever, and I will read to you the foundation of the claim upon which the minority rests its case.

Referring to the statute requiring that a true statement shall be returned with the ballots, showing whether they have or not been counted, the Supreme Court says:

Moreover, section 1476 seems to prohibit such a statement being made upon the ballot itself as was done by the clerk in the case referred to. Consequently, the statement, in order to carry with it verity, must be made on a separate paper, signed by all the officers of election; and its relation to the particular ballot it refers to must be clearly shown by attaching them together, or in some other satisfactory manner, and sealed up and returned to the clerk of the county court with the returns of the elections.

Now, the contestee claims that in this precinct where there were 112 rejected ballots, it was the duty of the judges of election to make separate statements and attach one to each one of the 112 ballots, stating that that particular ballot had not been counted. It must be remembered that the law of Kentucky provides no blank form for this purpose. There is no form sent out by the election officers to the election judges. The contention of the contestee is that it was the duty of the judges of elections, the mandatory duty of the judges of elections, to write out a statement, "This ballot was not counted," signed by each of the election officers, and in some way attach it to the ballot.

I may say, in passing, that it has been one of the things that I can not understand how marking a ballot on the back identifies it, but fastening a paper to it does not. The supreme court of Kentucky says you can not make this statement on the back of the ballot, because that is forbidden by the law which forbids making an identifying mark of any kind on the ballot. But you can put it on a separate piece of paper and attach that paper to the ballot. That is a distinction that requires the fine acumen of my friend from Mississippi or the gentleman from Kentucky.

We say in this case that the law has been complied with and that this decision of the supreme court of Kentucky has been complied with. The court of appeals of Kentucky said that this statement should be attached to the ballot or made in some other satisfactory manner, sealed up, and returned to the clerk of the county court. In each case where we have counted rejected ballots we have found in the record the return of the judges of election certifying to these rejected ballots, certifying to the number of ballots rejected, absolutely identifying the ballots from the time they left the judges of election until they appeared in the committee room here in the House.

Now, I call the attention of the House to what the judges of elections actually did do. The contestee claims that there should have been a statement attached to each ballot. The law does not so state. The supreme court does not so state. The minority of the committee selecting, I suppose, what they considered to be the strongest precinct in their favor in their report selected Electric Light precinct No. 20, and this is what the minority of the committee say:

There is not only wanting the certificate required by law to identify these ballots, but in some instances there is not even parole evidence offered to prove them.

It is alleged that 100 ballots were rejected at Electric Light precinct, Warren County; not one of the officers of the election at that precinct testified, and Edley, the Republican county clerk, testified, page 27 of the record, as follows:

"Q. How many ballots were returned, if any, from the Electric Light precinct, No. 20, and how did they come to your hands?

"A. There were 100 returned by the election officers of said precinct in a linen envelope duly sealed."

And the minority of the committee further say:

It also appears from the return of the officers of election at this precinct, page 12 of the record, that there were 44 votes in addition to those cast and those questioned that are wholly unaccounted for by the testimony, and non constat that these were not a part of the ballots in the record.

They take this as their strongest case, Electric Light precinct, where we have counted the 62 rejected ballots for Moss and 26 for Rhea, rejected a portion of them, and they laid particular stress that in this precinct the ballots are not sufficiently identified by the judges, or in the case at all.

Here is the record. The record shows that the ballots were produced by the county clerk of Warren County, who testified that these ballots were returned to him by the judges of election; that they were opened by the board of election canvassers at the proper time, and that they had remained in his custody ever since; and upon this linen envelope in which these ballots were returned appears this indorsement: "None of these ballots have been counted for anyone," signed by all the officers of election, all four of them.

Now, the only trouble in reference to any statement is that the law provides that the questioned ballots which have been counted and the questioned or rejected ballots which have not been counted, but have been rejected, shall be returned in the same envelope, and without a statement it would be impossible for the election canvassers to determine whether a ballot which they found in the record subject to be counted had been counted or had not been. And that is the reason for having a "true statement" made.

But here is the statement on the outside of this linen envelope: "None of these ballots have been counted for anyone;" and that is signed by all the election officers. What sense is there in saying that these election officers should have been compelled to write out 100 of these statements—practically a physical impossibility—after the votes had been counted and the returns made out on the night of the election? How can anyone reasonably say that the ballots are not identified because each one of them has not attached to it a statement that that particular ballot had not been counted?

Now, that is not all. The return of the election officers from this precinct, as from all other precincts in the State where the law was complied with and where we have counted any ballots, sets out the number of ballots which have been cast, the number of ballots which have been counted, the number of ballots which have been rejected, the number of ballots which have been marked "spoiled," and the number of ballots which have been destroyed because not used. In the Electric Light precinct, which gentlemen choose to set out as their special precinct, the election officials returned the number of ballots counted as valid, 264; the number of ballots questioned or rejected, 100; the number of ballots marked "spoiled," 10; the total number of ballots cast (which of course did not include the "spoiled" ballots), 374.

Here is another absolute certificate that there were 100 rejected ballots—another compliance with and true statement of the law—that these ballots had been rejected—all of them.

Here are two statements, each not only a compliance with the law, but each a compliance with the decision of the court of appeals of Kentucky, that the "true statement" was to be returned sealed with the election returns. Each of these statements was returned with the election returns. One of them was the election return itself sealed in an envelope, and the other was the indorsement upon the other sealed envelope that none of the ballots had been counted.

I am perfectly willing to rest my case upon the question whether a general certificate, embracing all the ballots, is a compliance with the law, or whether the judges of elections must write out and attach to each separate ballot a certificate, although not required by law or by the decision of the supreme court of Kentucky.

Now, Mr. Speaker, this case which the gentlemen on the other side rely upon—the case of Anderson *v.* Likens—is not the only case which the supreme court of Kentucky has decided in reference to election matters. That case was decided by the court of appeals of Kentucky November 19, 1898; but in a case subsequently decided by the court, the court passed upon other ballots and came to other conclusions. In the case of Booe *v.* Kenner, which was decided subsequently to the case of Anderson *v.* Likens, the supreme court of Kentucky, while not referring to a description of the ballots themselves, while not deciding the points of law in the opinion, passed upon the ballots in this language:

In answer to this we will add that we have carefully examined the record and are satisfied that the decision of the county canvassing board in giving Dudley the certificate of election was right; that the intention of the voter can be determined from an inspection of several of the ballots rejected by the court below, and that on the merits of the case the mandamus should be denied.

Here was an expression of opinion that the Supreme Court had decided upon the record in the case of Booe *v.* Kenner, and that upon the merits of the case the court below was right.

Mr. FOX. Has the gentleman the original volume of that report?

Mr. MANN. Mr. Speaker, I do not know who has the original volumes of any of these cases. I have not been fortunate enough to get hold of any of the court reports during the last week. I supposed the gentlemen on the other side had them.

Mr. BOWIE. The report has been in the possession of the gentleman from Iowa [Mr. SMITH]. I handed it to him myself at his request.

Mr. MANN. I am not reflecting on anyone.

Mr. SMITH of Iowa. It can not be disputed that the gentleman from Texas [Mr. BURGESS] got it from me.

Mr. MANN. I have been chasing for these reports, and they seem to have been going round in a sort of merry-go-round.

Mr. Speaker, I had the original report. I had the original record from the clerk of the court of appeals of Kentucky. I know what the court decided because I have examined the original record of the case. I have the original ballots which the court of appeals of Kentucky said were properly counted. They were rejected ballots. There was no "true statement" attached to those ballots. The court of appeals of Kentucky said that they had examined those ballots and that they were properly counted; and in this case the county canvassers had counted 7 ballots for the Democrats and 2 ballots for the Republicans—rejected ballots—and that had changed the result.

I have the 7 ballots which were counted to change the result, which the supreme court of Kentucky said was a proper result. There is no "true statement" attached to any of these ballots. There was no "true statement," such as the gentleman on the other side of the aisle insist upon, connected with any of these ballots, and there are ballots in this case exactly like the ballots which we have in the matter pending before the House. Here is a ballot which I will defy anybody on the floor of this House to determine as to whether the original mark was made in one place or in the other, and yet the court of appeals of Kentucky said that it should be counted for the Democratic candidate for county clerk.

The gentlemen who are opposed to contestant make another point in this case: In each of the ballots in Kentucky there is a blank space below the name of the candidate large enough in which to write the name of another candidate, and there is a square opposite not only the name of the candidate, but a square opposite the blank space. It very often happens that the voter, in voting, marks his cross in the square opposite the blank space below the name of the candidate instead of in the square opposite the name of the candidate. In those cases in the pending contest we counted them, because the law of Kentucky says that no ballot shall be rejected where you can arrive at the intention of the voter, and we thought it clear that where the voter had marked the blank space below the name of the candidate, the two places being inclosed, he intended to vote for the candidate whose name was printed in connection with it.

At that time I had not seen the decision of the supreme court of Kentucky in the case of Booe *v.* Kenner, but in these original ballots, which the court of appeals of Kentucky said should be counted, there are several ballots, I may say to my friend from Mississippi, where the court of appeals counted a ballot where the only mark was in the blank space below the name of the candidate. I shall be delighted to present for examination to my hypercritical friends from Kentucky and on the minority these ballots passed upon as legal by the court of appeals of Kentucky, and let them reconcile the opinions of that court in accordance with their own suggestion.

It is not my intention, Mr. Speaker, to weary the House with these matters. I know very well that in matters of this kind the House must depend largely upon the opinion of the committee which makes the report. It is with that consciousness that the members of the Committee on Elections have attempted to decide this case fairly and impartially upon its merits, believing and hoping that whatever may be done with this particular case the members of that committee might merit and receive the confidence and approbation of their fellow-members on the floor of this House. Mr. Speaker, I would not for any consideration vote to turn a man out of a body which I believe to be the greatest body of men on earth if I thought that he had even a reasonable chance of doubt in his behalf.

The contestant in this case was a Republican candidate. I do not know whether he is a Republican or not. I do not care what his present politics may be. He had been a Democrat in former years. In the break-up of political alignment in Kentucy he became allied to the so-called anti-Goebel Democrats. I know not and I care not, so far as this contest is concerned, what his politics may be; but I thoroughly believe that he received a majority of the votes cast at the election, and although that majority is small it makes no difference in the chance and luck of elections whether the successful candidate receives 1 majority or 50,000 majority; he is as much entitled to his seat upon a majority of 26 as he would be entitled to a majority of 26,000.

You will notice, Mr. Speaker, that I have not referred to the Goebel election law of Kentucky, and it is not my purpose to indulge in any special comments upon that law, which did not affect and which does not control the method of voting in that State. This election was held while the Goebel election law was in force. The Goebel election law provided for the selection of three State election commissioners by the State legislature. It provided that these three State election commissioners should select three county election commissioners in each county. It provided that these three county election commissioners should select four election officers in each precinct, to be divided equally between the parties.

The only criticism I have to make in reference to that is that if you place the power of elections wholly in a partisan body elected by another partisan body, absolutely removed from local influences, and then provide that if these judges of election fail to perform the duties of their office you can not count the ballots on the one hand or prosecute the election officers on the other hand, then all hope of fair elections is forever removed. I make no claim that such action was taken in this case. I make no criticism on the precinct election officers in this case; but if the law provided, as contended in behalf of the contestee, that it was the duty of these election officers to attach to each of the rejected ballots in their precincts a separate statement, stating that these ballots had not been counted, then I say that it is placing upon election officers an opportunity such as they have nowhere else, and then I say it is the result also of partisan selection of election officers removed from local control.

Why, you can not prosecute one of these election officers for not attaching a certificate to each of these ballots. The law does not provide for it. You could not prosecute one. There is no evidence of intent to commit a crime. There is no evidence that the people did not intend to be absolutely fair. They complied with the law; they complied with the decision of the court; they complied with the statute, and if the law were otherwise they endeavored to comply with it. But suppose we say that it is the duty of the judges to do so and so, and the judges are all partisan judges, selected for partisan purposes, removed from local control, where the people of the county can not rebuke them in any way, and then say that they have the power to throw out all of the Republican ballots or all of the Democratic ballots in a precinct, and there is no way of getting at it.

The gentleman may smile at the idea of throwing out all of the Republican ballots in a precinct; but remember that in the one city of Bowling Green more than 300 ballots which are entitled to be counted were rejected by these judges of election, and probably rejected honestly. If they knew they had the power, without molestation by law, to elect a man to an office by simply saying, "There is a question about a ballot and we reject it," there is absolutely no security for honest elections.

Mr. Speaker, I should be very glad, if any member of the House wishes to ask any particular question in regard to this matter, to explain it as far as may be within my power.

Mr. PALMER. How did you identify the rejected ballots?

Mr. MANN. The rejected ballots, under the law, were inclosed by the precinct election officers in a large official linen bag, such as I show to my friend from Pennsylvania. This bag is an official bag, furnished by the county clerk. After the rejected ballots were placed in a bag, it was sealed with sealing wax, and the county seal is impressed upon the sealing wax in this case. It should be in every case. It is sealed across the flap and the names of the election officers written across the flap.

Mr. PALMER. That bag contains nothing but the rejected ballots?

Mr. MANN. This contains nothing except the questioned, rejected, and spoiled ballots. In this case which I refer to, and in every case where we counted any ballots, the certificates of the officers show that all of the ballots from that precinct were rejected, and that there were no questioned ballots. There are cases in the record were some ballots are rejected and some of the ballots are questioned, without a statement telling which of the ballots are questioned and counted and which are rejected, and in those cases the committee did not count anything from the precinct.

Mr. PALMER. Is there any evidence before the committee as to the reasons for which the judges rejected the ballots?

Mr. MANN. Oh, there was parole evidence, yes; but the reasons are quite plain upon the face of the ballots, I think.

Mr. PALMER. That was because the marks appeared in two circles?

Mr. MANN. Yes.

Mr. PALMER. What did you do with the ballots that had the pencil marks on them?

Mr. MANN. We counted them. The law of Kentucky provides, not that a ballot shall be rejected if it has an identifying mark upon it, but that it shall be rejected if the voter, for the purpose of committing fraud, places an identifying mark upon it.

Mr. SMITH of Kentucky. I beg the gentleman's pardon. He is mistaken in that proposition.

Mr. MANN. Well, I beg the gentleman's pardon, but I am not mistaken in the proposition.

Mr. SMITH of Arizona. The law will show.

Mr. PALMER. Was there any evidence in this case that the identifying mark was put upon the ballot by the voter, or was it in evidence that it was put on by the clerk?

Mr. MANN. The only evidence in the case was a sort of guess

evidence introduced in behalf of the contestant for the purpose of showing that it was put on by the clerk, but the evidence did not prove that fact. There was no evidence tending to show that it was put on by anybody else, including the voter.

Mr. SMITH of Kentucky. Now, if the gentleman will permit me, I made the statement, in contradiction of his statement, that where there was a distinguishing mark upon the ballot it could not be counted. The gentleman said that if the voter had put it on it could not be counted.

Mr. MANN. I still say that.

Mr. SMITH of Kentucky. I say if it is there at all, the ballot can not be counted.

Mr. MANN. The gentleman is mistaken.

Mr. SMITH of Kentucky. I read from section 1570 of the election law:

Any ballot having any of the distinguishing marks mentioned in this section shall not be counted for any candidate voted for at that election.

If that is not as plain as a sentence can be drawn, I should like to know how it could be made any plainer.

Mr. MANN. It is perfectly plain, and I will read to the gentleman what the section says. What the gentleman quotes is:

Any ballot having any of the distinguishing marks mentioned in this section shall not be counted.

Now, what the section says is:

If any person shall induce or attempt to induce any elector * * * to place on his ballot * * * any sign or device of any kind as a distinguishing mark by which to indicate to any other person how such elector has voted—

That is the section.

Mr. SMITH of Kentucky. Yes; I agree that the section contains that language.

Mr. MANN. And it refers to a case where the elector places the distinguishing mark upon the ballot.

Mr. SMITH of Kentucky. I beg the gentleman's pardon——

Mr. MANN. Oh, I beg the gentleman's pardon. I can read. The section expressly says:

To induce any elector * * * to place on his ballot * * * any sign or device of any kind as a distinguishing mark.

Mr. SMITH of Kentucky. Will the gentleman permit another question?

Mr. MANN. Certainly.

Mr. SMITH of Kentucky. That book you exhibit contains not alone the rejected ballots, but it contains those ballots that may have been questioned and counted. They are put in together. Now, I want to know how your committee distinguished the ballots put into these books that had been merely questioned and counted and those which have been rejected. You find in that book 20 ballots. Now, how can you tell which particular ones of those ballots were simply questioned and counted and which ones were rejected and not counted?

Mr. MANN. If a portion of the ballots were rejected and returned, I do not know how I could tell without a particular statement.

Mr. SMITH of Kentucky. How, then, can you tell whether a portion had been questioned and counted or a portion had been questioned and rejected, or whether they had all been rejected? How can you ascertain that proposition?

Mr. MANN. I am frank to tell you how I arrive at that conclusion.

Mr. SMITH of Kentucky. Yes.

Mr. MANN. I refer to Electric Light precinct, No. 20. That is a fair sample by way of illustration. Now, the precinct judges of the election, or the election officers, return in their statements the number of ballots counted as valid 264, number of ballots questioned or rejected 100, number of ballots cast 374. Now, it seemed perfectly evident to the committe that 374 ballots were cast, and 274 were counted, and 100 returned as questioned. Those 100 were not counted, and hence were rejected. Now, I do not know whether that is a correct conclusion or not; but it seemed to me just as patent as to say that one and one make two.

Mr. SMITH of Kentucky. I think the gentleman is very much in error. Let us see.

Mr. MANN. Well, let us see if I am mistaken; 100 and 274 make 374. I can understand nothing more clear than that.

Mr. SMITH of Kentucky. Listen, will you? The total number that is counted as valid is 274; the number of ballots questioned and rejected, 100. Now, you do not know how many of that 100 were included in those that were counted as valid.

Mr. MANN. Yes, I do.

Mr. SMITH of Kentucky. How do you know?

Mr. MANN. We have here the statement that 374 ballots were cast, and they counted 274, and there were 100 they did not count, and they have so certified to that 100.

Mr. SMITH of Kentucky. Then that 100 were questioned or rejected—questioned or rejected?

Mr. MANN. Yes.

Mr. SMITH of Kentucky. There are a number of them that were merely questioned, and counted in the 264.

Mr. MANN. What became of the other ballots?

Mr. SMITH of Kentucky. That is a question you will have to ask the election officers.

Mr. MANN. You wish me to impeach the returns? We take the returns.

Mr. SMITH of Kentucky. No; I do not.

Mr. MANN. We accept the return of the election officers, which says that they had 374 votes cast. They have only counted 274, and they have rejected 100. Now, we find 100 here in the bag, which you contend are questioned ballots. You contend that they are questioned or rejected. But there were only 100 ballots there. If they were not all rejected, then the official returns of the officers are false.

Mr. POWERS of Maine. If the gentleman will permit me to suggest, the questioned ballots that are counted are placed in the box, to which each of the election officers has a key.

Mr. MANN. Certainly.

Mr. POWERS of Maine. Only those that were counted are put in that book, and this report is made.

Mr. MANN. The gentleman is to a certain extent correct and to a certain extent not correct.

Mr. SMITH of Kentucky. That is true.

Mr. MANN. All the ballots are counted. The questioned or those rejected ballots are sealed up in one envelope and put in the ballot box. The ballot box has two keys—one in the possession of one of the Democratic judges and one in the possession of one of the Republican judges—and it takes both keys to open it. Here, now, all the ballots were found, so that there were 374 ballots cast; 274 of those are counted as ballots not questioned.

Mr. SMITH of Kentucky. They are counted as ballots. They may have been questioned, but they are counted as ballots.

Mr. MANN. Very well; 274 were counted as valid and 100 were not counted as valid, and that means that 100 were rejected.

Mr. SMITH of Kentucky. There is no statement in the certificate to that effect at all. There is 100 either counted or rejected.

Mr. MANN. Not at all; there were 100 rejected.

Mr. SMITH of Kentucky. One-half of them may have been included in those counted.

Mr. MANN. It is a matter of arithmetic. If the gentleman says that a portion was included in the 264 counted, what became of the rest of the ballots?

Mr. SMITH of Kentucky. I do not undertake to account for them. I am undertaking to show the gentleman that the general election certificate can not be made to take the place of a statement that our statute requires shall accompany the ballots for the purpose of identification.

Mr. PALMER. What is a questioned ballot?

Mr. MANN. A ballot that is counted and the validity of which is questioned by a judge of election. It may be counted by the election officers, but still it is returned as a questioned ballot.

Now, there are cases in this record where it is impossible to tell whether the ballots were rejected or whether they were questioned merely, and in this case we have not counted them at all. But it is as plain as that 1 and 1 make 2 that in this precinct the 100 ballots which were not counted were rejected ballots. That is a mere matter of arithmetic. In that particular precinct, and that is one which the gentlemen on the other side have dwelt upon most strongly in their opinion, and I call the attention of the House to the fact that there is a certificate over the signatures of the four election officers stating that not one of them had been counted for anybody.

Mr. SCOTT. Is it not true that the ballots that were questioned and counted were deposited in the ballot box?

Mr. MANN. It is true that in that precinct there were no ballots questioned. If there had been ballots counted and questioned they would have gone with the rejected ballots, but the returns show that there were no ballots questioned and counted. The returns in other precincts show the same thing.

Mr. PALMER. What you want is to get an honest return?

Mr. MANN. Not so much an honest return as to find out who upon the record was fairly elected to the office under the Kentucky law and in accordance with the Kentucky statutes and the decision of the Kentucky court of appeals.

We have taken the court of appeals of Kentucky as a guide for determining the Kentucky election law, although we have never considered that we were bound, so far as the rule of evidence was concerned, by the construction of the Kentucky court of appeals; but, so far as the result is concerned, we have absolutely followed not only the Kentucky statutes, but the Kentucky court of appeals' decisions.

Mr. PALMER. Why did you not count the ballots not questioned and not counted for somebody?

Mr. MANN. Well, we find a case like this, for instance: We find a return like this in Logan County, and there were severe

charges of fraud made by the contestant against the contestee's case in Logan County. If I remember rightly, the contestee's brother is one of the election officers in Logan County.

Mr. RHEA of Kentucky. I beg the gentleman's pardon. He is an election commissioner, and has nothing to do with the conduct at the polls on election day.

Mr. MANN. Well, I call an election commissioner one of the election officers. But, as far as the case shows, there was no proof of fraud on his part at all. But this occurred: In a certain precinct, Ferguson, No. 10, the judges of the election made this return:

Number of ballots counted as valid	245
Number of ballots rejected	0
Number of ballots marked "spoiled"	0
Whole number of ballots cast	21
John S. Rhea received	168
J. McKenzie Moss	votes.. 85
Total	253

So here was a case where they certified to 21 ballots cast and 245 as counted, and they made 253 votes for the two candidates for Congress. But we did not pay any attention to that case at all. I do not know but that we would have had an excuse for throwing out the returns. We found rejected ballots coming from that precinct, or what was claimed to be rejected ballots. We found ballots in the record there questioned, rejected, or spoiled, and we could not determine, and we did not attempt to determine which.

Mr. RHEA of Kentucky. The gentleman does not mean for the House to understand that my brother signed that certificate or was an election officer or in any capacity was present at that polling place?

Mr. MANN. I hope the House did not misunderstand me. I have not the slightest doubt that if the gentleman's brother had been an election officer the ballots would have been properly returned.

Now, there are other cases. We found a case at precinct No. 4, Logan County. In this precinct the election officer made a statement like this:

Whole number of ballots cast	357
Whole number of rejected ballots	6
Whole number of ballots marked "spoiled"	1

We find in the record, in connection with the envelope returned for precinct election officers, an envelope marked "spoiled and contested ballots," and in that we find 8 ballots. The record seems to show 3 ballots were counted by the precinct officers, and 3 not counted. It is impossible to tell which of the 8 ballots in the record, if any, were rejected ballots, which of them were counted, and which of them were not counted by the precinct officers, and therefore we counted not any of them.

Mr. SMITH of Kentucky. As I am reasonably familiar, I think, with the election law of Kentucky, the gentleman will allow me to make a suggestion. Take a precinct in which 300 votes have been polled. There are 100 of them questioned; but of those the precinct officers count 50. In their general statement or certificate they say that 250 votes have been counted as valid. The next item is questioned or rejected ballots, of which they say there were 100, which, added to the 250, would make 350 votes polled. That is the gentleman's method of getting at his result. The truth, however, would be that of the 100 questioned ballots 50 had been counted and included in the specification of the 250 votes counted as valid. That is the difficulty with the gentleman's method of computation.

Mr. MANN. In every one of these cases we have verified the number of votes counted as valid by examining the returns as to how many votes were actually cast for the different candidates. What the gentleman supposes to occur would be an absolute impossibility.

Mr. BURGESS. Allow me to ask the gentleman from Illinois a question. The original ballots returned as valid are not in the record, are they?

Mr. MANN. Of course the original ballots are in the record.

Mr. BURGESS. Those that are here mentioned as returned ballots, are they in the record?

Mr. MANN. Oh, the original ballots which were counted as valid and not questioned are not in the record.

Mr. BURGESS. Very well; now, this was a general election, in which candidates for all offices were voted for. My question is this: The gentleman asserts that we can determine that certain ballots were rejected, because the returning officers recite so many questioned and rejected ballots; and then he claims that by the mere process of addition you can determine that all those were rejected. Now, I ask the gentleman how he can do that when he can not determine that the 100 ballots, we will say, counted as valid were any of them for Mr. Moss or Mr. Rhea, except the number recited, which in each instance is short of the valid number of ballots?

In other words, in a general election, a voter may have voted for county clerk and no other officer, for sheriff and no other officer. That ballot may have been counted as a valid ballot, and a questioned ballot may have been counted for Mr. Rhea. In such a case these returns will not demonstrate that it was a rejected ballot. Hence the gentleman's whole argument falls to the ground as not being consistent with the returns.

Mr. MANN. Well, Mr. Speaker, I would not wish to say for a moment that the gentleman's arithmetic is not good, but I suggest to him that he examine the figures in the case. I have simply cited one case. They are all alike. In every case we have counted the ballots as plain as anything can be. Here are, we will suppose, 374 ballots on the table. The election officers lay aside 274 which they have counted and 100 which have not been counted for anybody. It is perfectly evident that if they have received 374 ballots and have counted only 274 there are 100 ballots which have not been counted at all. If the gentleman can not understand that arithmetic, I confess my inability to enlighten him on the point.

Mr. WHEELER. Will the gentleman allow me a question?

Mr. MANN. Certainly.

Mr. WHEELER. If a ballot were cast for county clerk of Warren County and not voted in the Congressional race, would it not, under the Kentucky law, be mandatory upon the precinct election officers to certify that vote as having been cast as a valid vote?

Mr. MANN. I am not sure that I understand the gentleman's question.

Mr. WHEELER. If in a general election some one voted for county clerk——

Mr. MANN. Certainly that would be a valid vote.

Mr. WHEELER. And would not the precinct election officers be required under the Kentucky law to certify that that vote was cast as a valid ballot and counted?

Mr. MANN. If the election officers counted it as a valid ballot, as they ought to do.

Mr. WHEELER. We presume that they did their duty. Then they will have to certify that vote?

Mr. MANN. Yes; as one of the ballots cast.

Mr. WHEELER. Then your record would show that among the ballots cast at this election was this ballot cast for county clerk, though it had no relation to the Congressional race?

Mr. MANN. Certainly.

Mr. WHEELER. Then will the gentleman explain, not as a conclusion, but as a matter of fact, how it happens that among the ballots certified as cast by the precinct election officers there were no ballots cast for county officers which were not cast in the Congressional race?

Mr. MANN. Quite to the contrary; I presume there were a number. We do not undertake to say anything of the sort. The figures that I have been referring to have nothing to do with the Congressional race. This does not mean that there were 264 ballots cast for Mr. Rhea and lost, or on Congressman at all. This does not mean and it does not say there were 264 votes cast for Congress, but that 264 ballots were counted.

Mr. WHEELER. Will the gentleman permit me just a little bit further? While that is entirely true, it is upon the hypothesis of the number of ballots utilized that you base your calculations in regard to the rejected and questioned ballots. Am I correct in that?

Mr. MANN. Well, I will not say yes or no, because I do not understand what you mean. Suppose you elucidate further.

Mr. WHEELER. What I mean is this. You take the whole number of ballots certified as cast and the number of ballots returned as questioned or rejected, and upon the basis of the whole number of those cast and those returned you arrive at the conclusion that the ballots returned as questioned or rejected are the identical ballots; those returned now are the rejected ballots and all——

Mr. MANN. Why certainly we do not arrive at anything of the sort. We have the certificate. These ballots are returned in an envelope in a particular way to the county clerk, who states these are the ballots, and we have his testimony.

Mr. WHEELER. I do not mean that.

Mr. MANN. Then you misstate the question.

Mr. WHEELER. Perhaps I am not clear. Some of those ballots are returned as questioned and they may have been counted, and the gentleman arrives at the conclusion that these ballots returned as questioned have not been counted because, by adding the total number of ballots returned as questioned or rejected to the total number of votes counted he arrives at the conclusion that, as that tallies with the certificate of the counting officer, that was the total number of votes polled, and that therefore some of these votes questioned or rejected must be the same ones mentioned in the certificate and not counted.

Mr. MANN. Well, the gentleman has made a statement of his own.

Mr. WHEELER. Is not that correct?

Mr. MANN. That is not correct.

Mr. WHEELER. Well, then, I have been laboring under a misapprehension. I understood the gentleman to say to my colleague here that that was the way they knew these particular ballots had not been counted.

Mr. MANN. That is the way we determined that the ballots which are returned in the beginning in rejected envelopes have been rejected and not counted.

Mr. WHEELER. Let me put you a hypothetical case.

Mr. MANN. But the number of them is certified in the election returns.

Mr. WHEELER. Supposing there were 300 votes cast, certified to, and that there are three of those ballots cast for county clerk and not returned.

Mr. MANN. What do you mean by not returned?

Mr. WHEELER. Well, destroyed, because they were counted as valid.

Mr. MANN. That is where the gentleman is misleading. The gentleman ought to be perfectly familiar with the election law of Kentucky, but at the time this law was in force the ballots that were counted were not destroyed, and they are not destroyed now.

Mr. WHEELER. I understand that perfectly well, but still those ballots that were not destroyed are not here before the House, nor are they questioned.

Mr. MANN. You state they were destroyed.

Mr. WHEELER. Then I retract that statement. They will be put in the ballot box; in other words, three of them will be put in the ballot box and then three ballots would be questioned but counted, and these ballots would be rejected and not counted, but the nine ballots would be returned as questioned or rejected. Now, will the gentleman state to the House how he would arrive at the conclusion whether or not those three ballots that were questioned were not counted or were counted according to his statement.

Mr. MANN. If there were 300 ballots cast?

Mr. WHEELER. Yes.

Mr. MANN. And the judges of election counted all of them but 6?

Mr. WHEELER. Yes.

Mr. MANN. And returned they had counted 294 ballots, and the questioned and rejected ballots were inclosed in the same envelope? Without anything further we could not determine, and in such case we have not counted them.

If the judges of election have 300 ballots cast and there were 6 ballots which were not counted, and the 3 ballots which were counted and questioned and the judges of election made the return they had only counted 291 ballots, then we presume that all of the ballots in the envelope were rejected ballots, although it would be a false presumption, based on the false return by the judges of election; and we have not presumed in any case that the judges of election made a false return, because if you presume that there would be nobody elected at any time to any office in that State, and that, of course, we could not concede.

I reserve the balance of my time, Mr. Speaker.

Mr. LACEY. Before the gentleman sits down I should like to ask for a word of explanation.

Mr. MANN. I am very glad to yield.

Mr. LACEY. In some of these envelopes there were ballots returned that had not been counted, that had been rejected, mingled with others that had been counted although questioned.

Mr. MANN. There were a few such returns.

Mr. LACEY. And in those cases I understand you did not attempt to do anything. Because of the confusion of goods you could not separate one from the other.

Mr. MANN. In those cases we paid no attention to the ballots, and refused to consider parole evidence upon the subject.

Mr. LACEY. You accepted the return as conclusive?

Mr. MANN. We accepted the return as conclusive in every case, although I am frank to say that I have some doubt in reference to whether that would be the law or not; but we did not consider any ballot unless the return showed absolutely that all of the ballots in the envelope were rejected ballots.

Mr. BOREING. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BOREING. I should like to ask the gentleman from Illinois if it is not a fact that there were very few ballots that were returned questioned and counted?

Mr. MANN. There were very few. There were some.

Mr. BOREING. Can you state how many?

Mr. MANN. That would be a guess, Mr. Speaker, and in an election case I am not willing to indulge in a guess upon any proposition whatever.

Mr. BOREING. The reason I ask the question is that I think your report shows that there are very few.

Mr. GAINES of West Virginia. It does show that there are a very few.

Mr. MANN. I reserve the balance of my time.

Mr. FOX. Mr. Speaker, before the gentleman sits down, I want to ask him a question as to a fact, because I think we ought to agree about the facts, and I have no doubt we will. Perhaps I misunderstood the gentleman. I understood the gentleman to say that no questioned ballots were considered in making up the report of the majority of the committee except those inclosed in an envelope bearing the statement that they were not counted, signed by the judges of election.

Mr. MANN. Well, the gentleman misunderstood me then.

Mr. FOX. I must have done so, because I understood the gentleman to say that.

Mr. MANN. No; I called attention to the case which the gentlemen of the minority selected as their battle ground in this case by singling it out in the minority report, and I referred to that case in full for the purpose of demonstrating the absurdity of the position of the gentlemen of the minority. Why, Mr. Speaker, if the position of the minority were correct, no man could ever expect, in the State of Kentucky, to be sure of an honest election, and that is a libel upon the State, which is not deserving of it, because the people of that State, in my opinion, as well as the people in other parts of the country, have no desire to take advantage of any candidate, or of any chicanery or fraud in the elections.

Mr. FOX. Will the gentleman allow me a question, because I am not going to make the mistake of arguing this case in the gentleman's time? I am going to wait until I get the floor before I make my argument, but I want to agree upon the facts. Is it not a fact that the envelope inclosing the questioned ballots from the Electric Light precinct is the only one that bears the statement, signed by the officers of election, that there were none counted? Is not that the only envelope of that kind?

Mr. MANN. It is not.

Mr. FOX. Then I will ask you, if you have it there, to refer to the envelope inclosing the questioned ballots for Kisters Mill precinct, No. 25, and see what the indorsement is on that; because I do not want to make any mistake about a question of fact.

Mr. MANN. I should be very glad to have the gentleman refer to it. I can not lay my hand upon it.

Mr. FOX. There is no statement upon that, is there?

Mr. MANN. I probably can tell that by referring to it. That is easy enough. It is very likely there is not.

Mr. FOX. Of course, we can differ about the construction of law, but we ought not to disagree about the facts.

Mr. MANN. Upon the ballot from the precinct which the gentleman cites there is an indorsement simply of the names of the election officers across the paster of the ballots.

Mr. FOX. Now, will the gentleman allow me to ask him just one more question? In reference to precinct No. 9, in Simpson County, I will ask him whether there is any indorsement on the envelope containing the questioned ballots from that precinct, and if so, what that indorsement is?

Mr. MANN. I think the gentleman will have ample opportunity to lay this particular case before the House. He might ask me as to each precinct in my time.

Mr. FOX. That is the last question.

Mr. MANN. I will say very frankly to the gentleman, as I said before, in some of these precincts there is no indorsement, and that we never rejected any of the ballots in those districts.

Mr. FOX. You stated that you did not count any of those ballots where there was no indorsement.

Mr. MANN. I did not state anything of the sort. We did not count any ballot where the judges of the election did not certify showing absolutely by the certificate the number of ballots rejected, meaning that all the ballots in the linen envelope were rejected. But the gentleman chooses to say that we did not introduce parol evidence. In his minority report, in reference to Electric Light precinct No. 20, he says, "there is no parol evidence or other proof."

Why, Mr. Speaker, we have not to rely upon parol evidence to prove anything in this case except the identity of the ballots from the hands of the county clerk, who certifies to them, he being the legal custodian, and hence the gentleman thought to criticise us for not offering parol evidence in this particular case which is the only case he selects out in his minority report. I called the attention of the House to the envelope and the return from that particular precinct at length. If the gentleman wishes to change now and admit that the ballots from that particular precinct are valid, and take another tack, and write another report, and select another precinct, I am perfectly willing to go into the proof in the other precincts and show that there were sufficient grounds for our conclusion.

Mr. FOX. I will not follow the example you have in making an amended report that you brought in.

Mr. MANN. I have not brought in an amended report. If I have, I must have written it in one of my dreams, as Bryan speaks of Cleveland doing.

Mr. FOX. You certainly made two reports.

Mr. MANN. I reserve the balance of my time.

Mr. FOX. Mr. Speaker, I yield such time to the gentleman from Texas as he desires; but before he proceeds, I will ask how much time has the gentleman from Illinois consumed?

The SPEAKER pro tempore. The gentleman from Illinois has consumed one hour and forty-five minutes.

Mr. BURGESS. Mr. Speaker, the gentleman who has just addressed the House enters into some of the history of the committee of which we are both members with reference to its previous decisions in questions like this. Being a new member, and for the first time on this committee, I know nothing of its previous record, and, frankly, I care less.

I am not concerned as to whether the committee decided the previous cases correctly or not. I hope for its honor that it did. I am mainly concerned about how it is trying now to have this case decided. The gentleman speaks in defense of his purity of purpose; how he, together with his secretary, was so careful as to have these ballots all counted without knowing what the final cast-up would be in the case.

I am glad to see the gentleman so afraid of himself. It argues well for him, perhaps, in the future. But the question in this case—decisive, in my judgment, and upon which the minority feels certain the majority has blundered—is not one of count so much as one of legal import, as to whether any ballots in this record shall be counted or not. It is true we contend, and I think an inspection of the ballots will support that contention, that even if these ballots contained in the record are correctly counted, according to correct rules of law, and the results added to the official return by which Mr. Rhea occupies his seat in this House, that the result of these returns will not be changed.

But the first contention is in this case that none of these ballots contained in this record ought under law to be properly counted for any purpose in this contest. That question will arise, and I shall present it to you, upon the undisputed record which is before you. There will be no controversy between the gentleman who has preceded me and myself as to the facts; and he will be forced, or those who reply for him will be forced, to meet the fair legal question which involves the distinct proposition of whether or not this Congress will follow the statute and decisions of a State with reference to its elections, or whether both will be overruled by the committee of this House, contrary to the decisions and without a single one to support it.

I had intended briefly to cite the provisions of our Constitution and the decisions thereunder which define the boundaries of our power as a Congress to deal with Congressional elections in one of the States. The gentleman has frankly admitted that we are bound by the statutes of the State and the decisions of its supreme court construing them, and hence I regard it as unnecessary to consume time to demonstrate the wisdom and the correctness of that admission.

I will say, however, briefly, in the language of that splendid lawyer who wrote the minority report in this case, that the right to vote is not a matter guaranteed to any citizen in this country by the Constitution of the United States or any act of Congress. It is a State privilege. The only provision of the Constitution which could attach to an election in one of the States is that which has reference to the color line, and that is not involved in the remotest degree in this contest now before the House.

The Constitution also provides that the members of the House of Representatives "in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." That provision is not involved at all in this case. The Constitution also further provides that "times, places, and manner of holding elections for Senators and Representatives shall be prescribed by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators." That provision is not involved in this contest.

Mr. Tucker in his work tersely and completely states this whole contention in the sentence when he says:

> Suffrage is a State privilege belonging to State citizenship and is exclusively under State jurisdiction.

The minority report says:

> The State of Kentucky has fixed the qualification of electors and has prescribed the time, places, and manner of holding elections for Representatives in Congress. Although perfectly competent to do so, Congress has not at any time made such regulations or altered those made by the State of Kentucky.

Hence it follows this House is bound by the laws of the State of Kentucky and the decisions of her supreme court thereunder, and it is therefore perfectly obvious that the gentleman from Illinois admits the legal situation when he says this House is bound by the statutes and decisions of the State of Kentucky touching upon the manner and conduct of her elections, Congressional or otherwise.

Now, what is the real issue here between these two reports? Certain ballots are found in the record. The contention of the majority is that those ballots were rejected by election officials in the Third Congressional election district in Kentucky, and that here by this House, by this Congress, they should be recounted and the result added to the official returns. And by that process, taking the official returns, which gave Mr. Rhea the election by 156 majority, they add enough votes to Moss to bring him out 21 votes in the lead. Going through the whole record and counting all they could afford to count, scrutinizing it with all the labor and patience of the gentleman from Illinois for three weeks, as he says, they have added out of these ballots to the official returns enough votes to make Rhea 21 votes behind.

Now, I wish this House to carry that 21 majority, upon which the majority report stands, in its mind, for I intend to demonstrate, as I can as a lawyer, under the decisions of the supreme court, under the statutes of the State, and under the facts of this record, written down by the majority committee themselves, that there are more than enough votes in one precinct alone which they counted, that ought not to be counted, to change the result.

Now, in a general way I want to state so every man can understand the point about which we differ, the way elections are conducted in Kentucky in so far as they bear upon the points named in the discussion. They have there an official ballot. They are printed under the direction of the county clerk. They are required to bear a fac simile of his signature. They are sent out in bound books of various numbers in accordance, I presume, with the judgment of the clerk as to the size of the precinct and the number of voters that will need them. That ballot has on it different columns above which appear different devices. These devices indicate the parties for which the nominees thereunder are named, like the log cabin for the Republicans and the rooster for the Democrats, and something else for the Populists, and so on. Beside each name is a square in which the voter is to mark his choice, and also blanks where he may vote for some one else than any of the names for the particular office, if he sees fit.

A circle is under each device, upon which he may vote for the whole straight ticket by merely stamping in that. Now, the procedure in the election is about this: The election officers are made up of two judges and a sheriff and a clerk. The two judges are required to be of different political faith, and the sheriff and clerk are required to belong to different political parties, and there is no contention here but what these provisions of the Kentucky law were carried out in this case, and the two parties were represented. There is no necessity, no reason, for any fling being made with reference to fraud, because if one party was wrong the other was equally so, and it could not be charged to the Goebel law or its administration or to the Democracy of Kentucky that this or that failed to appear upon the ballots when they were returned.

Now, the voter goes to the clerk of the election when the polls are open, and the clerk takes the ballot upon which are two stubs. He writes the name of the voter upon one stub and the name of the voter on another, tears it in two between, hands him the ballot with one of the stubs attached, and the voter goes into the booth, and he marks it as he may see fit. He comes back with it folded so that nothing will be disclosed except the stub and the name of the county clerk, showing that the ballot is official. Then the judge of elections, not the clerk, takes that ballot, tears from it the stub, and deposits the ballot in the ballot box. Now, that is exactly the simple process of voting under the existing law in Kentucky.

And I pause here long enough to say that substantially those provisions have existed for years and years in Kentucky. The questions which arise in this case upon these two reports arise upon statutes more than twenty-five years old and that were not changed through all the Goebel period which is sought to be thrust into this case—I know not for what purpose—for no good one, evidently. Now, proceeding further, after the voters have all voted, then this is what the law requires: The judges and the sheriffs and the clerks—the whole body of election officers—are furnished with a blank return. And I call attention to the fact that the form of the return, to which this printed form furnished by the county clerk to the election officers conforms, is provided for in section 1483 of the statutes, as follows:

> SEC. 1483. The form of the return to be made on the inside of the cover of the stub book shall be substantially as follows: State of Kentucky, ——— County, election held on the ——— day of ———, 18—, in ——— precinct. Number of ballots counted as valid, ———; number of ballots questioned or rejected, ———; number of ballots marked "spoiled," ———; whole number of ballots cast, ———; number of votes received for governor ——— by ———; number of votes received for lieutenant-governor ——— by ——— (and so for other State and county offices). * * * We, the judges, sheriff, and clerk of election at the precinct mentioned, certify that the above is a correct return of the election held therein on the day aforesaid. * * *.

Now, that refers only to ballots about which no question arises—ballots against which none of the officers make any claim of invalidity. The statute continues:

> That if there are any ballots cast and counted or left uncounted, concerning the legality or regularity of which there is any doubt or difference of opinion in the minds of the judges of election, said ballots shall not be destroyed, but sealed up and returned to the clerk of the county court with the

returns of the election for such judicial or other investigation as may be necessary, with a true statement as to whether they have or have not been counted; and if counted, what part and for whom.

It must be quite clear, I think, to any lawyer that this section assumes that in these ballots which will not be included in the number cited in the returns as having been counted as valid there will be frequently some or all of the ballots questioned which were counted, but counted separately from the other ballots about which there was no question. It must also be clear to the legal mind that the returns provided for in one of these sections by the legislature which enacted both sections could not have been dreamed of as covering the "true statement" provided for in the other section. And when any man on the floor of this House contends that the correct legal construction of this section providing for returns is that the returns provided for may be taken as covering the "true statement" provided for in the other section to be attached to the ballots, he goes against every authority of any weight that has ever treated of statutory construction in this country or in England, and he would be ashamed to state that kind of a proposition before any respectable court—even the court of a justice of the peace in the State of Texas.

The familiar rule is that statutes upon the same subject are to be construed together, and that one is not held to cover the other completely, for such a construction would suppose a legislative body to be foolish enough to enact two statutes covering the same ground. These two statutes are to be treated as separate and distinct. Both statutes are mandatory in their terms, and they clearly, by any fair construction have not the same object in view.

Now, our contention is that this statute, which is mandatory and which requires that all the questioned or rejected ballots shall be returned to the election board accompanied with a "true statement" showing that they were counted or not counted, and if counted for whom, is to be applied to the facts of this case. It is admitted here that no statement of any sort is attached to any of the ballots that are sought to be counted by this committee.

The majority of the committee have been four weeks in going over and inspecting these ballots with microscopic eyes from A to Z, and in all their searching they found one bag containing some ballots which, on the back of the bag, said they were not counted. That is all they could find. There was nothing on the ballots themselves, mark you. There was no statement to identify them at all, and no man can say whether they are the ballots that were voted by the voters in that Kentucky election for Moss or Rhea or not.

Mr. FOX. There is nothing on the back of any of the bags except that from the Electric Light precinct.

Mr. BURGESS. And only in the one case from the Electric Light precinct is there on the back of the bag containing ballots any attempted compliance with the statute, and that does not state enough to identify anything.

Mr. FOX. In that connection, if it does not bother my friend, I want to call his attention to the fact that in many cases these ballots are not even identified as exhibits in this record. There is not a mark on them to identify them as part of the record whatever.

Mr. BURGESS. I will say for further explanation on that point that the only way that the ballots are attempted to be drawn into the record is in this way: The ballots returned are returned to the county clerk. The deposition of the county clerk is taken, and with reference to some of the ballots he puts a mark on them, and he certifies they were ballots in his office, identifying them as being in his possession; but that is not the question. We are passing upon the action of the election officials under this statute with reference to these ballots before they reach the county clerk.

It is when they are taken out of the box, when there is any question as to whether they were cast by voters or not. Then and there the election officials must identify the ballot about which there is a question and must affix in some way a statement to which they agree or disagree, so that there can not afterwards be any question about whether that was the ballot about which the dispute arose.

Mr. PALMER. Will you contend that each ballot ought to be indorsed with a statement?

Mr. BURGESS. No, sir; no, sir. The gentleman misunderstood me if he drew any such conclusion as that. There never ought in any instance to be more than two statements, no matter how many ballots, and the statute clearly indicates it, because when the statute fixes here the penalty for putting a mark on the ballot, in brackets it expressly exempts putting a mark on the protested ballot, and the inference is clear that if there were 100 ballots here, part of which were questioned and part of which were rejected, and you and I were the election judges, that the simple way of complying with the statute would be to make two statements, attach all the ballots to one, and say these ballots were rejected and counted for nobody, and attach all the ballots to the other and say these ballots were counted for So and so or not counted for So and so

That is the plain, easy way of complying with the statute. That is all there is to it. There is no difficulty about it at all, and all this fuss that is made in the majority report about the difficulty of complying with the statute and about attaching separate statements to each ballot, and that that would take a hundred statements written out and signed by all the election judges and attached to each one, is ridiculous. That is not my contention at all.

Mr. SMITH of Iowa. Will the gentleman permit a question right there?

Mr. BURGESS. Yes.

Mr. SMITH of Iowa. Is it not a fact that that was the very contention of the contestee before the Committee on Elections, and that that is the reason that this appears in the report of the majority?

Mr. BURGESS. Well, sir, I would not undertake to give you reasons for what you say in your report.

Mr. SMITH of Iowa. Do you deny that he so contended before the committee?

Mr. BURGESS. I am not sure about that; I would not deny that.

Mr. SMITH of Iowa. Do you not know that it was contended before the committee on behalf of the contestee that every separate rejected ballot had to have attached to it a separate and distinct certificate, certified by the officers of elections, showing it was rejected?

Mr. BURGESS. I think not. I think you misunderstood the gentleman. I do not think that has ever been the contention of my friend Mr. Rhea or his attorney. I do not see how it well could be.

Mr. SMITH of Iowa. You do not remember this being discussed before the committee?

Mr. BURGESS. Oh, yes; I remember its being discussed, like here. Mr. MANN ridiculed the idea, and perhaps you did too, and I agree with you. That is unnecessary and it is ridiculous.

Mr. MANN. I am glad you gentlemen have got to that point, at least.

Mr. BURGESS. Yes.

Mr. FOX. That is the point of the Kentucky statute that we are trying to speak about.

Mr. BURGESS. The question, however, was brought into this case by those on your side urging that the statute ought not to be complied with, and as a reason against it, saying it was impossible to be complied with, because it would require so many statements.

Mr. SMITH of Iowa. I beg your pardon, Mr. BURGESS; we never contended it should not be complied with.

Mr. BURGESS. Then you admit it ought to be complied with.

Mr. SMITH of Iowa. I admit that it ought to be complied with. I do not admit the same result follows that you claim if it is not complied with.

Mr. BURGESS. Very well; I understand. We understand each other, and I am glad the other gentleman [Mr. MANN] admits the statute ought to be complied with. With reference further to the identification of these ballots, it will be seen by reference to article 1476 that it is very plain. It reads as follows:

If any officer of election, or other person intrusted with the custody or control of any ballot or ballots, either before or after they have been voted, shall in any way mark, mutilate, or deface any ballot, or place any distinguishing mark thereon, either for the purpose of identifying the same (except by numbering protested ballots for future reference) or for the purpose of vitiating the same, he shall be guilty of a felony, etc.

Now, that, I take it, strengthens my contention upon the other two statutes, that the plain idea of all of them is that the election officers, when they act upon ballots rejected and questioned, shall make them up into two piles, so to speak, and attach to each a statement signed by all of them specifying whether they were counted or not and, if counted, how many and for whom, and identify them by number if necessary.

Now, if we were before a court that was blind to partisanship, blind to everything but a righteous decision of the law, it would be enough to read this statute and to read these Kentucky decisions, in my judgment, to end the case. This precise point has been before the supreme court of the State of Kentucky in two distinct cases, raised by the briefs of parties and upon precisely the record shown in this case.

I repeat that statement and challenge a denial from the gentlemen who shall hereafter follow me, that this exact question has been before the supreme court of the State of Kentucky in two distinct cases upon exactly the record in this case, and in both cases decided in accordance with our contention. The first case that I shall read to you, decided as late as November, 1898, is the case of Anderson *v.* Likens, published in 20 Kentucky Law

Reporter, page 1001. I will read that portion of it which bears upon the question now before the court:

Of the whole number of ballots contained in the sealed envelopes referred to the lower court, upon appeal from the contesting board, adjudged that 15 be counted for Likens and 2 for Anderson. But it appears from an inspection of those ballots that none of them were accompanied "with a true statement as to whether they had or had not been counted, and if counted, what part and for whom," as required by article 3, section 37.

Now, mark you:

There was no statement at all in relation to any of them except 5 or 6; and the statement as to each of them was not only meager, but was signed alone by the clerk of the election, and not all of them signed by him officially.

We think the statement should be full and complete, as required by the statute, and signed officially by all of the officers of the election. Moreover, section 1476 seems to prohibit such statement being made upon the ballot itself as was done by the clerks in the cases referred to.

Consequently, the statement, in order to carry with it verity, must be made upon a separate paper, signed by all the officers of the election, and its relation to the particular ballot it refers to must be clearly shown by attaching them together, or in some other satisfactory manner, and sealed up and returned to the clerk of the county court with the returns of the election. Questions as to the fitness of some of the ballots contained in the sealed envelopes to be counted and for whom counted were decided by the lower court, and have been argued by opposing counsel in this court. But as, for the reasons stated, none of them afford competent evidence of any fact, or can be considered for any purpose, we need not discuss or determine any question relating to the efficiency of any of them.

My senior colleague on this committee took the trouble to send to the State of Kentucky and procure the original record of this case, so that we might see whether the returns of election showed what they show in this case, and see whether there was any question about the decision being on all fours with the facts in this case. We have the record here. It shows a stronger state of facts to invoke this rule than is in the case before this House now. There is more of it in that record to identify the ballots, outside of the statement required by the statute, than there is in this case.

Not only that. This question was specifically raised before the court in the brief for the contestant. Not only that. This decision was rendered by a Democratic court, and the effect of it was to unseat a Democrat and to seat a Republican. That is the record of this case; and if I were disposed to appeal to your sense of justice on that side, I would say to you as honorable men and as competent lawyers, before you overrule a Democratic court that seated a Republican in Kentucky over the head of a Democrat, you Republicans upon the same state of facts ought to hesitate here to unseat a Democrat in order to seat a man who is only a pretended Republican.

This same question was before the supreme court in another case of later date than the one I read, a case decided in the December following the same year in which the other one was decided, a case in which precisely the same point was raised that we raise here and that was raised in the Likens case. Here is what the court say about it (Banks *v.* Sargent, 20 Ky. L. Rptr., 1049):

Appellant complains of the action of the contesting board and the circuit court because they refused to count certain ballots returned from precinct No. 5. The originals of these ballots are here, and are indorsed "This ticket was counted for all persons under the rooster and no one else. H. Banks, clerk of election precinct No. 5."

That was on the ballot in this case, and fixed definitely, exactly whom it was counted for, and in that case. if my friend from Illinois [Mr. MANN] had been there, what a beautiful argument he could have made about the intent of the voter being plainly disclosed, and the ballot being perfectly identified by the statement on it in compliance with the statute and the signature of the clerk and the returns of all the election officers; and the speech that he made here if made there ought to have enlightened and opened up the brain of the judges of the supreme court of the State of Kentucky and led them to a different decision.

Here is what they say:

The exact indorsement is not on all the ballots, but they are similar. On inspection of the ballot, the cross is opposite appellant's name, which is under the "log cabin," and appellant contends that the votes so marked should be counted for him.

And the court on this finding held:

"The opinion in the Anderson *v.* Likens case, supra, also is conclusive of this point. The certificate of the clerk of election alone amounts to no certificate. In any event the certificate should not be on the ballot. It should be on a separate paper attached to the ballot, and signed by all the officers of the election. The ballots so certified can not be used as evidence of any fact, and they should not have been counted by the contesting board."

Mr. FOX. There is one suggestion in the case of Anderson *v.* Likens that I want to make to the gentleman. The ballots were accompanied by a statement signed by the clerk something more than these. They had no statement signed by the election officers.

Mr. BURGESS. I have stated to the gentleman that they were better identified in that case than they were in this, and I did not care to go into all the details. If any gentleman reads the record in the case of Anderson *v.* Likens he will see that they are much better identified than any of these are that the gentleman reports, and the only way the supreme court opinion can be dodged, the only way it can be obviated, is by arguing in a circle after a horse-mill fashion that the supreme court of Kentucky has not enough sense to read a plain statute and say what it means.

That is the only way you can evade it; and in effect that is what you do. In effect the majority's contention recites that "we believe, having great respect for the supreme court, that if we had appeared before it, with our logic and our brains, the decision would have been different." That was exactly the way it was written, and when I read it it makes me think of CHAMP CLARK'S story about "gall," which I will not repeat.

Mr. MANN. May I call the attention of the gentleman to a statement in the report of the majority?

Mr. BURGESS. Certainly.

Mr. MANN (continuing). In which we say that from an examination of the case the gentleman has referred to we are satisfied that the supreme court perfectly applied the law to the facts. That is quite contrary to the statement which the gentleman has now made.

Mr. BURGESS. I understand you to say that as a salve at the last, after the sore is opened. [Laughter.] It is like what you say when you turn John Rhea out with a certificate of good moral character.

Mr. MANN. Am I to understand that the gentleman is not willing that we should make that statement with reference to Mr. Rhea?

Mr. BURGESS. I have no objection to it. I think it is true, and it does me good to have you hit the thing occasionally.

Mr. MANN. The gentleman criticises us for making that statement.

Mr. BURGESS. Not at all; I simply use it as an illustration.

Mr. MANN. I take it as a criticism from the gentleman.

Mr. BURGESS. I use it as an illustration as to how you did in the other matter. When you want——

Mr. MANN. "How nice we can smile when we stick in the stiletto."

Mr. BURGESS. I will read what you say about the supreme court of the State of Kentucky:

We have too great a respect for the Kentucky court of appeals to believe that that court intended to aid in such a construction of the Kentucky statute.

You think they did not intend to say what they said because there can be no dispute that they did say that the ballots must not be counted unless attached to them is a statement as to whether they were counted or not; and if counted, how many and for whom?

Mr. MANN. Does the gentleman want me to answer that now?

Mr. BURGESS. Is not that the language of the opinion?

Mr. MANN. That is not the language of the opinion. The language of the opinion is "attached or shown otherwise." The gentleman seems to have omitted the very express statement of the supreme court that there are two ways of showing, one by attaching a statement to the papers, or in any other satisfactory way which may be used.

Mr. BURGESS. I will read it to the gentleman:

Consequently, the statement, in order to carry with it verity, must be made upon a separate paper, signed by all the officers of the election, and its relation to the particular ballot it refers to must be clearly shown by attaching them together, or in some other satisfactory manner.

Now, the gentleman will not run counter to all the grammar he ever knew and say that a "satisfactory manner" only refers to the statement instead of the manner of its "relation to the particular ballot." Does the gentleman contend that the statement required by the supreme court is given in the record here? They had this case before it, and they say it must be attached to the particular ballot.

Mr. MANN. We claim that a proper certificate is here.

Mr. BURGESS. Can the gentleman show me any statement in the record which shows how many of any particular ballot was rejected or counted; and if counted, how many for whom? That is the kind of statement required by the court.

Mr. MANN. I take it that the supreme court of Kentucky and the State law did not intend to say, where they say the ballots were not counted at all, that they must publish a statement for whom the ballots were counted. I do not see how it is possible to say for whom they were counted if they were not counted at all.

Mr. BURGESS. You can not find the statement in the record that they were not counted.

Mr. MANN. The law says that a true statement must show whether the ballots have or not been counted, and if counted, for whom. We say the statement in the record before us shows that the ballots have not been counted; that is, a statement in writing signed by the officers of election in each precinct, sealed and returned with the returns of the election.

Mr. BURGESS. Very well; that precise statement in that case was in the Anderson-Likens case. That precise statement was before the court there. Not only that, but the returns which you call the statement is in the exact form of the statute, the form set out in the statutes, and the supreme court must have known it; so they could not in the Likens case have been overlooking your contention that it was a statement to which the subsequent statute refers. I am surprised that any serious contention should be made

that the returns of the general election is the "statement" attached to the ballot referred to in the Likens opinion. The statute requires both, and the statement treated here, in the words of my friend, admits of no controversy.

Mr. MANN. I remember the language of the supreme court perfectly well, and if the gentleman will permit me, I will say that, like him, I have read the original record in the case and the briefs of counsel in the case, and I say the supreme court of Kentucky have never intended to make or hold such a doctrine as the gentleman claims, and in the record of that case and the briefs of that case the attention of the supreme court of Kentucky was never called to the certificates in the case and they never examined the certificates, and they did not know that they were in the record.

Mr. BURGESS. Just a moment in reply to that, because that constitutes a worse reflection than any the gentleman has before uttered; that brands every Republican lawyer in the State of Kentucky and the Democratic court as not knowing how to conduct an election case. I will say to the gentleman from Illinois that he is the first man that ever raised this issue, although five or six cases have been ably represented by the best Republican attorneys in the party in the State of Kentucky.

Mr. MANN. Does the gentleman claim that was an issue?

Mr. BURGESS. I do.

Mr. MANN. Does the gentleman claim that in the 51 pages of brief of counsel it is remotely referred to?

Mr. BURGESS. I do.

Mr. MANN. I will thank the gentleman to show it.

Mr. BURGESS. I admit that no reference was made by the court or any lawyers to the election returns under this statute as being the "statement" required. Why? Because nobody in Kentucky ever thought of it, be he Democrat or Republican. It took an election committee of this House to find out that simple difference.

Mr. MANN. I challenge the statement that there is a word in the 51 pages of brief of the contestee in that case which refers to this controversy at all in regard to the rejected ballots and the point the gentleman makes.

Mr. BURGESS. I will stake my reputation as a lawyer and an honest man that the straight-out point is raised every time in the Likens brief that these ballots ought not to have been counted because the true statement required by the statute is not attached. The gentleman admits it in his own report.

Mr. MANN. I say that in the 51 printed pages of brief of the contestee in the Anderson-Likens case there is not the remotest suggestion of it.

Mr. BURGESS. I am not talking about the contestee. I am talking about the man who raised the point, who was a Republican and represented by Republican lawyers, and the Democratic lawyers in Kentucky had the good sense not to make that contention. No lawyer on the Democratic side in Kentucky ever contended that the returns of a general election amounted to a true statement under this statute.

Mr. MANN. You claim that the Democratic lawyers filled 51 pages of briefs and did not refer to the contention in the case? I do not believe such a slander on the Democratic party.

Mr. BURGESS. For the simple reason that there was no way to meet the proposition under the statute, and the best that could be done, as every good lawyer knows, and what the gentleman ought to do is to admit that you are knocked out and quit. That is what they did. [Applause on the Democratic side.] There is no justice in this proposition in any fair court on earth. I will tell you that it is not a question of unseating John S. Rhea; it is not a question of seating Mr. Moss. This ruling and this majority report involves a great contention that will go further in innovation upon the rights of the State of Kentucky and its supreme court than any action of this House that has occurred since the war.

It means fairly and squarely whether the Committee on Elections can override and misconstrue and rip up the back the statutes and the supreme-court decisions of a State and be sustained in so doing by the House of Representatives. There is no escape from this question.

But I am not nearly through yet with this proposition. I am willing to meet the gentleman on his own construction of this statute and say there is absolutely nothing in this case and that no sensible man can vote to turn John Rhea out of this House on that kind of evidence. You may assume that the legislature of the State of Kentucky and the supreme court of that State were foolish enough to treat a general statement referring to no ballot as compliance with a statute which required a particular statement with reference to particular ballots as being questioned or rejected, and a particular statement as to how many were counted and for whom.

Why, sir, it took ingenuity to maintain that a general return can be treated as a compliance with that sort of a particular statute. There is not a lawyer on the other side but would be ashamed to write himself down as sustaining such a proposition. No wonder the gentleman wanted to talk about how fair the majority of the committee had been and how justly it had acted in reaching this result.

Mr. MANN. May I ask the gentleman a question?

Mr. BURGESS. Yes, sir; as many as you please.

Mr. MANN. Does not the gentleman think that, if the contention which he holds is correct, it would have been fair for the Kentucky law to provide a blank upon which these 112 returns, more or less, or any returns, might have been made by the election officers?

Mr. BURGESS. No, sir; I think not; and I think the reason why a form for the purpose indicated by the gentleman is not furnished is perfectly clear. In this case, as in many other cases under the statute, blanks, as a matter of necessity, could not be furnished because there is so varied a state of facts in different cases that no blanks would serve the purpose. The officers would get into more trouble by undertaking to use a form in making the returns than if they simply followed their common sense. That is the simple explanation; and I ask the gentleman, if the legislature intended this return to cover such a statement as he contends for, why did they not provide a form for it in the statute? Let the gentleman answer.

Mr. MANN. They did provide the form.

Mr. BURGESS. I say—why did they provide a form for only that one return if they intended it to cover the other statements, the particular statements for which they did not provide—why?

Mr. MANN. They provided a form which we contend is sufficient. You contend that the judges of election should have written out a form for which the statute provided no blanks. We contend that the statute furnished a form for the blanks required—furnished all the forms that were necessary. You contend that the Kentucky law is defective; we contend that it has provided for the case in good faith.

Mr. BURGESS. I beg the gentleman's pardon. I believe this statute is one of the best I know of, and if rightly administered would unerringly produce accurate results, unless "monkeyed with" by an election committee. [Laughter.]

That is my judgment. I am trying to get the gentleman to see the absurdity of his contention. Here is a particular statute, requiring a particular measure, and the gentleman challenges me with the question, Why was not a form made out? And yet his contention is that a general statute which does lay down a form is to be construed as covering a statute which does not lay down any form.

Mr. MANN. There is no particular statute in the case; it is all one statute.

Mr. BURGESS. Well, the gentleman is getting very technical.

Mr. MANN, "Getting very technical!" I am taking the same identical statute—not the statute, by the way, referred to in the report of the minority.

Mr. BURGESS. I will ask you whether this language used by statute writers would not be regarded as a particular statute as against the general language of the other:

> The ballots shall be accompanied with a true statement as to whether they have or have not been counted; and if counted, what part and for whom?

Now, if the gentleman does not understand the difference between a general and a particular statute, it will be impossible to debate with him further. The other statute refers to all elections and all returns and to no particular ballot. It lays down the form that all the election officers are to return from all the election precincts, without reference to any particular ballot. This statute requires the identification of particular ballots upon which the election officers take particular action, questioning some and rejecting others.

Mr. MANN. The gentleman will pardon one further remark and that will end this interruption by me. If he holds that a statute with reference to one return is a particular statute, and a statute with reference to another return, where it is the same statute, applying to the same officers and about the same matter, is a general statute, I do not understand his distinction, and I do not think there is any difference under the gentleman's own statement. Therefore, I say, I will not interrupt him any more, because he does not consider me intelligent enough to debate with him.

Mr. BURGESS. I beg the gentleman's pardon. That is only an assumption like some of the gentleman's assumptions in his report—assumptions not supported by the facts.

Mr. MANN. My assumption was based upon the gentleman's statement, which, of course, on this matter, as on others, he did not intend anybody to take seriously.

Mr. BURGESS. Of course the whole body of this statute referring to the general subject of elections might be called an election law; but in speaking of two particular sections I still maintain that I am right, and I do not intend that the gentleman from Illinois shall get away from this conclusion by the imputation that I am asserting my knowledge as superior to his. Not at all;

I am not. He is older and smarter and better looking than the gentleman from Texas. I will make that broad admission, but in this particular case he is mistaken as to the law.

Mr. MANN. I said I would not interrupt again, but I can not permit a statement like that to go unchallenged, because it is not true in any particular or in the whole.

Mr. BURGESS. Well, I will except the good looks part of it [laughter], but I am going to let the balance go. Now I have said to you in seriousness, and I did not intend to get in the light of having a little circus and playing ringmaster to my friend from Illinois in the other character—that was not my purpose. I am serious, as earnest and as sincere as ever I was in my life, and I am willing to be written down in this record and confront for the next twenty years, if I should be so fortunate as to be reelected. I mean to make a record in this case of which I shall be proud when I am in my grave, and one of which I shall not be ashamed to have the greatest lawyer in this country say, "Here is the speech you made in a contested-election case; just read it and see what a miserable lawyer and quibbler you were."

Mr. MANN. Does the gentleman think they can read paper documents there?

Mr. BURGESS. Where? [Laughter.] I am not aware of where your intended future abode is, but I am sure they will read them where I intend to go. [Laughter.] Now, I have stated that I am willing to take the gentleman's position that the general return under the Kentucky law could be taken pro tanto, so to speak, as covering this true statement, and that still that would not help him, that still that would not justify the count in this record, that still that would not change the return of this vote.

Now, if you will follow me I will try and make it clear. For fear that the gentleman may think I misunderstand him when I attempt to state his statement on this floor, I will read it out of his report so that there can be no mistake about his position. Here is what they say with reference to this return. This is the way they attempt to identify these ballots and justify their count under this statute and under these decisions:

> It seems to us quite evident that if for instance the precinct election officers in their certificate of election state that the number of ballots cast was 400, that the number counted as valid was 300, and that the number questioned or rejected was 100, that this is a sufficient statement to show that there are 100 rejected ballots not counted.

Now, if you will notice that, that is the meat of their case. Unless that is exactly true in fact and in law there is absolutely nothing in their report, and it ought not to be adopted. Practically they concede that. Practically they admit that the other evidences of identification of ballots under the statute would not be sufficient, but they say that this general election return which gives the number of valid ballots, the number of questioned and rejected ballots, the number of ballots cast, and the number of spoiled ballots, and the number of ballots furnished to the election officers by the county clerk affords five statements of arithmetic, from which it can be deduced that these ballots in this record were all rejected.

Now, I assert positively as a matter of fact that that is not true, and that they admit it in their own statement, and that the only question is as to how many of them it is true of. Now, these things need to be understood as bearing upon this proposition in mathematics, so to speak. If this had been, gentlemen, an election alone for Congress—Do you follow me?—if this had been an election alone for Congress and there had been only two candidates, namely, Mr. Moss and Mr. Rhea, then you could take the general return and concede that every voter there voted for Mr. Rhea or for Mr. Moss or did not vote for either—that is, that he did not vote for anybody else—you could determine whether a given number of ballots returned as questioned or rejected were all rejected or not.

But where, as in this case, there was a general election for all offices from constable to governor, including Congress, you can not take those figures and tell anything about whether these ballots that were in this record were counted for Mr. Rhea or for Mr. Moss or not. I mean from the returns, and upon that they must stand. For there is one box here alone—let me turn to it——

The SPEAKER. The gentleman has consumed one hour. Having unlimited time, the gentleman may go on; but it has been usual to call attention to the fact that an hour has been consumed. The gentleman may proceed if he desires.

Mr. FOX. I will yield to the gentleman as much further time as he desires.

Mr. SPEAKER. The gentleman will proceed.

Mr. BURGESS. To bring this down and try and get every one of you to see it, so that it can not be uncertain, I will ask you to consider with me just one election precinct upon which this committee has acted with reference to this particular question. I have stated to you that their report shows Mr. Moss was elected by 21 votes only. In this one precinct, Kisters Mill precinct No. 25, they increased Mr. Moss's vote over Mr. Rhea 51 votes. So that if they are wrong as to that one precinct, then Mr. Rhea has still got 30 majority under their own report, without reference to all other questions.

Now, I want you to take their own report of how they identify those ballots under this statute. They admit there was not a single one of them signed by the election officials, nor was there anything on the bag in which they were contained which stated whether a single one of them had been counted or not, mark you. They were in a bag with no statement attached to them and there was nothing on the bag, so they admit in their own report, except that it had on the paster across the front, not sealed as the statute requires, not the signature of all the officials, but on a flap merely it had the signature of the election officers.

There was no statement on the bag or on the ballot as to any number of them, as to how they were counted, or for whom. So I have got here a case in which they added to Mr. Moss 51 votes, in which they must stand alone the doctrine of applying to this statute under these decisions the general election return and rely upon that alone to identify every one of these ballots as having been rejected. For unless it is certain that they were rejected, by what right will you recount them for Moss? If there is any question as to whether they were counted originally for Moss, by what right will you now recount them for Moss? And your whole right to count any one of them is and must be founded upon the righteous judgment that they were all rejected. There is no escape from that.

Now, you ask me to believe that because these returns show the number of ballots counted as valid, 257; number of ballots questioned or rejected, 112; number of ballots marked "spoiled," 3; whole number of ballots cast, 369; number of ballots not used and destroyed after the polls closed, 64; number of ballots in this book, 436—you ask me as a reasonable man, as a man who is willing to decide the facts on his oath, to believe from that that those ballots were all rejected by the election officers and to recount them for Moss as they may show on their face. I say you ask me too hard a proposition.

Mr. LACEY. I should like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield to the gentleman from Iowa?

Mr. BURGESS. Yes; certainly.

Mr. LACEY. It seems that an amount equal to 50 per cent of the counted ballots was rejected; that is, that one-third of the whole was rejected.

Mr. BURGESS. About.

Mr. LACEY. How did it happen that such a large rejection occurred in that precinct?

Mr. BURGESS. Well, your question assumes more than I am willing to assume. There is no proof that they were all rejected.

Mr. LACEY. The return shows 112.

Mr. BURGESS. They may have been all questioned, and that is the point I am discussing now. How can you tell that the whole 112 were not merely questioned? They may have all been counted. How do I know that they were not counted? You say, "Why, because there are so many ballots counted as valid." Why, that would not include a ballot that was counted for a particular man but questioned. The "questioned" ballots and the "ballots counted as valid" must not be mingled together, under the statute. That is clear.

Mr. MANN. Does the gentleman claim that if a ballot is counted as valid, but questioned, it is not included in the return of those counted as valid?

Mr. BURGESS. I think so, clearly.

Mr. MANN. Then the gentleman ought to read the Kentucky law.

Mr. BURGESS. That is a mere difference of opinion as to whether the gentleman from Illinois ought to know more about the Kentucky law. I say that this is clear. The number of ballots counted as valid refers to the ballots counted about which there was no question, and the addition shows it; for added to that the questioned and rejected ballots, the spoiled ballots, and the ballots left in the book makes the number of ballots sent out by the clerk. So I must be correct when I say that the first recital of the number of "ballots counted as valid" did not include a "questioned" ballot that was counted.

Mr. MANN. As valid?

Mr. BURGESS. Yes.

Mr. MANN. So that the gentleman's contention is that a ballot counted as valid is not included in the number of ballots counted as valid?

Mr. BURGESS. Yes; that is exactly my position.

Mr. MANN. That is the position of the gentleman, which he rests upon.

Mr. BURGESS. Yes.

Mr. MANN. That the certificate of the judges that they counted a certain number of ballots as valid does not include the number of ballots counted as valid?

Mr. BURGESS. The gentleman ought not to make a speech in my time.

Mr. MANN. I wanted to know what the gentleman's position was.

Mr. BURGESS. I will state my position so clearly, I think, that any man who has good common sense can understand it. Now, listen. I say that this number of ballots "counted as valid," in my judgment, does not include any "questioned" ballots which may have been counted for some one particular candidate, and the proof of that is that in each instance in these election returns the number of ballots counted as valid, the number questioned or rejected as a whole added together, with the spoiled ballots and the ballots left at the close of the election, added together, make the total number of ballots sent out in the book. So that it amounts to a demonstration that no questioned ballot is included in the number of ballots counted as valid.

Mr. BURLESON. That is a mathematical demonstration.

Mr. BURGESS. It is a mathematical demonstration.

Mr. MANN. That is what we think.

Mr. PALMER. The demonstration is the other way.

Mr. BURGESS. So that the only contention you have is to ask me to assume that all of the ballots returned by the election officers as questioned or rejected, how many of each I do not know and for whom I do not know—you ask me to assume that all of them were rejected, and I say you have no right to make that assumption. I say that half of them or all of them may have been questioned as to other officers and that they may have been counted for Moss. But you say that would increase his vote.

Mr. LACEY rose.

Mr. BURGESS. Just a moment, and I will yield to the gentleman from Iowa.

How frequently do we find, in red-hot Congressional elections, men who vote for neither candidate, and yet vote for candidates for county officers or for State officers. The returns show it. I have made a little table, and I will give you the figures without going into them minutely. These returns show that in the boxes that you counted there were 49 votes of those who did not vote either for Mr. Moss or Mr. Rhea, as shown by the mere subtraction of the total vote from the vote counted as valid. As shown by these figures in these precincts there were 49 voters who did not vote either for Moss or Rhea.

Mr. MANN. Does the gentleman claim that the sum of 86 and 163 are 49? Because that is the gentleman's statement, and that is faulty arithmetic.

Mr. BURGESS. No; the gentleman simply misunderstands me.

Mr. MANN. The gentleman stated that in this precinct the number of votes returned for the two candidates for Congress were 49 less than the ballots counted as valid.

Mr. BURGESS. I did not intimate anything of the kind. I say that in this precinct there were 51 votes that you counted for Moss, and that was more than double the whole majority you give him. What I do say with reference to the vote is this: I was using 49 with reference to all the precincts that you set out in your report. Add them, and they show that 49 returned as valid votes by the election officers did not vote for either Moss or Rhea. That is the face of your returns. That depends upon how many questioned ballots were counted, that went in to make the aggregate and decrease the number of those that did not vote for either Rhea or Moss.

There may have been a hundred of them—I do not know how many—that did not vote for either Moss or Rhea. As to one of them the voter might say that he did not look upon him as a straight Republican, and as to the other, he might not like his Democracy. How many of this number were in the questioned ballots no man can now know, and it takes an election committee with a remarkable arithmetic to figure out all the rejections and add them to the election returns overturning the election of a Democrat and turning it on the side of the Republican.

That is the shape of it exactly. Is it really possible that any thinking man would contend that he can tell how many of these ballots were in fact rejected by the election officers merely from the face of the returns? Were there none questioned? If they were questioned were they counted? Who knows? How many of them were there? For whom were they counted? Who knows? Nobody but the gentleman from Illinois, with his fabulous intellectual process, could determine.

Mr. GAINES of West Virginia. Will the gentleman allow me to answer as to who knows?

Mr. BURGESS. I shall not yield for an answer, because the gentleman has time in his own right, and while I would as cheerfully yield to him as to any other man on the floor, I prefer that he answer his own question in his own time and in his own way.

Mr. GAINES of West Virginia. I simply wanted, Mr. Speaker, to show where the recordanswered the question.

Mr. MANN. He does not want it answered.

Mr. BURGESS. I guess the answer will keep. It will not spoil unless it is like some of the other remarkable statements that have been made.

Now, Mr. Speaker, I have spoken longer than I intended to speak, but I desire that the House shall take these propositions of law and apply them to the undisputed facts in this case. There is no contention of any real dispute as to how these ballots are in the record, what they show, and what the facts are. And it is only a question of the application of the statute and two Kentucky decisions to these facts.

There is no need of talking about what the committee has done heretofore; no need to talk about the Goebel election law, or partisanship, or anything else, except the law in the case invoked by the undisputed facts; and it does seem, if this House would not get together on any question under heavens, of patriotism or of principle, we can afford one time to agree as lawyers as to what the law is and apply that to a certain state of facts.

Now, in conclusion, I press this matter, because I believe there are many fine lawyers in this House on both sides, and I do not desire to be understood as asserting that any member of this committee meanly or corruptly has reached the conclusion that he holds; not at all. But men are involuntarily and unconsciously biased, and especially so, unfortunately, in matters of religion and politics. The best of men who listen to a religious discussion generally believe their man ate the other fellow up, and the tendency of this House has been on contested-election cases merely for each member to find out what side of the report he is on, and that settles the matter.

I say that this is a question of the highest right and the highest judicial opinion that you or I shall ever be asked to give; and in making our decision it is one in which we ought to remove far from us every partisan plea, one in which every principle of patriotism ought to well up in our hearts and say let us decide the real law in the case and preserve the real rights of States and the rights of individuals if the heavens and parties all fall into pieces. [Loud applause on the Democratic side.]

I tell you it is a great question. If we shall set a precedent of winking at decisions and statutes of a State upon the free election of one of its citizens to represent her in this House, where shall we draw the line? If we set for once that precedent, when a time of excitement comes, when a time of partisan feeling may come, when there will not be the good era as there is now, men will be driven along and along and along until the rights of States and of individuals will be lost in a mere centralized power under the dictation of the men who are then running it.

I tell you I feel as if this case involved as much for the State of Kentucky as any of the great trials through which she has been called to go, and God knows they have been many and severe enough. I feel as if I would like to say to her, out of my heart, "I fear, thou grand old State, thou art about to be wounded in the house of thy friends.

"Surrounded by representatives of sister States whose stars blend with thine in the national flag, they are about to say that your Supreme Court decisions are of no value; that your statutes are meaningless, and that the election of one of your citizens can be determined by ballots not in compliance with the laws of your State or your court; that though you are gallant and brave enough to have men that would turn out on the same issue a Democrat and seat a Republican, that in a Republican House they are about to reverse the order of things and the decision of your higher court, and turn out a Democrat and seat a pretended Republican." [Applause on the Democratic side.]

Mr. MANN. Mr. Speaker, may I ask how much time the gentleman from Iowa would like?

Mr. SMITH of Iowa. I am not able to say, Mr. Speaker.

Mr. MANN. I yield to the gentleman from Iowa [Mr. SMITH] such time as he desires.

Mr. SMITH of Iowa. Mr. Speaker, the history of the Kentucky election laws is a novel one in this country. From 1799 until 1891 elections took place in the State of Kentucky by a viva voce vote, and there was no ballot law in that State for any purpose. The constitutional convention which adopted the present constitution of the State provided that thereafter elections should be by ballot.

The following year a ballot law was enacted which I think is one of the best laws upon that subject ever written upon the books of any State of this Union. [Applause.] It was a law written with the benefit of all the experience of all of the States. Kentucky, the last to accept this system, was enabled by a comparison of the laws of other States to write upon her books a model upon this subject. That law has not been greatly modified since, but some changes were made in October, 1900, just before the election here in question.

In 1898 the legislature of Kentucky passed the so-called "Goebel law," and that law has something to do with this contest. It provided for the election by the then legislature of Kentucky of three commissioners, for their having the selection of the election

commissioners in every county in Kentucky, and for the selection by the county commissioners of all the precinct election officers in the State; it provided for no division, politically speaking, of the members of these official bodies except in the precincts; provided that in the precincts there should be one judge from each of the two great political parties, and that the sheriff and clerk should be divided between the two parties, but, as the law provided, that the sheriff should be the umpire and should decide all disputes between the judges.

So that the county board was enabled to appoint one Republican judge and one Democratic judge, a Democratic sheriff and a Republican clerk, and could thus control the board of elections everywhere that it saw fit to control it.

Mr. RHEA of Kentucky. Can I interrupt the gentleman?

Mr. SMITH of Iowa. I will allow the gentleman to do anything he pleases.

Mr. RHEA of Kentucky. I know the gentleman from Iowa does not mean to misstate the law, but the provision which provided that the sheriff should be the arbiter has existed in Kentucky for fifty years.

Mr. SMITH of Iowa. I did not intend to be understood that that was a part of the Goebel law. I meant to state that the Goebel law provided for the appointment of the local board by the county board, and the county board by the State board, and while it did require the judges to be of different political faiths, under the law the sheriff was the umpire to decide between them, and could, under the Goebel law, be a Democrat in every precinct. The gentleman does not dispute that proposition, does he?

Mr. RHEA of Kentucky. I thought the gentleman from Iowa had fallen into the supposition that making the sheriff the arbiter was a part of the Goebel law.

Mr. SMITH of Iowa. I have not. Now, these judges and sheriffs and clerks, selected in the manner I have indicated, made up the returns from which this contestee claims that he was elected to the Congress of the United States, and he is now defending his seat chiefly on the ground that, as he claims, these partisans of his did not comply with the election laws of Kentucky so as to preserve the evidence of the rejected ballots. He is here insisting that these ballots are not identified under the laws of Kentucky by the election officers selected under the unjust Goebel law.

Mr. BOWIE. Will the gentleman allow me a question?

Mr. SMITH of Iowa. I will.

Mr. BOWIE. In the county of Warren, about which complaint is made as to the rejection of the ballots, is it or not a fact that both parties were equally represented at each election precinct in that county?

Mr. SMITH of Iowa. They were in every county in Kentucky, if the law was complied with, and I take it that it was.

Mr. BOWIE. If that is so, what was to prevent the Republican members of the precinct election board from making a certificate and calling on the Democrats to sign it?

Mr. SMITH of Iowa. I will answer the question. It would not do a particle of good, because you say the law of Kentucky required them to be certified to by all the election officers, and you had the controlling factors of the board; you had one judge and the sheriff in each precinct.

Mr. BOWIE. One other question, if the gentleman will permit.

Mr. SMITH of Iowa. Yes, sir.

Mr. BOWIE. If the Republican members had signed such a certificate and the Democratic members, upon request, had refused to sign it, could not the Democratic members have been compelled by mandamus to sign it?

Mr. SMITH of Iowa. I presume they probably could have been.

Mr. BOWIE. Was anything of that sort done?

Mr. SMITH of Iowa. I think not.

Mr. BOWIE. Did even the Republicans offer to sign such a certificate?

Mr. SMITH of Iowa. In some instances the certificate is signed by a portion of the board.

Mr. BOWIE. By one clerk.

Mr. MANN. If I may be allowed a question, I would like to ask what would become of the ballots while a mandamus proceeding was winding its weary way through the courts?

Mr. SMITH of Iowa. The object of this law, according to the contention on the other side, is to identify these ballots; and if they are not identified from the very hour of the election the identification is worthless, as gentlemen well know.

Mr. BOWIE. If the ballots were taken into court they would be in the custody of the court, and would follow the mandamus proceedings.

Mr. SMITH of Iowa. Did the gentleman ever hear of a court anywhere in the world taking charge of ballots pending mandamus proceedings?

Mr. BOWIE. I presume it has been done time and again in Kentucky.

Mr. SMITH of Iowa. So many things have been done in Kentucky that it is possible this may have been done there, but I do not think it has ever been done anywhere else.

Mr. MANN. I assure the gentleman that such a thing has never taken place in Kentucky in any recorded proceedings.

Mr. SMITH of Iowa. But I want to return to the case I was discussing. I have not here the law of 1900, but I have the law which is in substance the same as to the certificate to be attached to these rejected ballots:

> If there are any ballots cast and counted or left uncounted, concerning the legality or regularity of which there is any doubt or difference of opinion in the minds of the judges of election, said ballots shall not be destroyed, but sealed up and returned to the clerk of the county court with the returns of the election for such judicial or other investigation as may be necessary, with a true statement as to whether they have or have not been counted, and if counted, what part and for whom.

There is not a syllable in that provision of law which says that this "true statement" shall be attached to the ballot.

Mr. WHEELER. If the gentleman from Iowa will permit, I should like to make a single remark with reference to the question just asked by the gentleman from Iowa, and the intimation of the gentleman from Illinois [Mr. MANN], that there would be something done in Kentucky with the ballots pending mandamus proceedings. I desire to say that there were mandamus proceedings in the city of Louisville in connection with the election of 1899, and the judges of the circuit court in that city (in some instances Democratic judges and in some instances Republican judges) were compelled to sign the returns.

Mr. SMITH of Iowa. No one questions that.

Mr. WHEELER. The gentleman from Illinois did.

Mr. SMITH of Iowa. Not at all; he has not questioned it in the slightest degree.

Mr. WHEELER. I understood the gentleman from Illinois to ask what would become of the ballots during mandamus proceedings?

Mr. SMITH of Iowa. He simply wanted to know how you would identify the ballots after this long litigation.

Mr. WHEELER. No long litigation is required. In the case I have mentioned it took the court only three hours to determine the question.

Mr. SMITH of Iowa. They have a summary way of doing things in Kentucky.

Mr. WHEELER. But a very honest way, though it may sometimes be a little mysterious to some gentlemen.

Mr. MANN. The question is how the ballots could be identified by a certificate of the court, which could not be had except at the end of mandamus proceedings, which might be weeks after the ballots had passed out of the hands of the judges of election. The ballots could not remain in the possession of the election officers; that is sure.

Mr. WHEELER. I presume they would go to the county clerk——

Mr. SMITH of Iowa. I say the statutes in Kentucky did not provide that this true statement should be attached to the rejected ballots. But it is insisted that in the decision in the case of Anderson *v.* Likens the supreme court of Kentucky said that the certificate should be attached. When you come to examine the original record in that case you find there never was any argument before the court upon that subject; you find that the question never was discussed there, and you find that there is not a word in the statute saying that the certificate must be attached to the ballot. You find that it is a mere opinion of the court without any argument having been made upon the subject at the bar.

But suppose it be conceded that that is a fair construction. The court then says that the identification must be done by attachment or in some other satisfactory manner. In this case we have the identification in an entirely satisfactory manner, as can be shown to any fair-minded man.

This question was asked here this morning: If the returns should show 274 votes as valid and 100 votes as "questioned or rejected," how could you tell that there were not 50 "questioned or rejected" votes included in the 274 returned as valid?

Mr. FOX. Well, will my friend permit me——

Mr. SMITH of Iowa. Let me finish that statement. I will answer that question.

Mr. FOX. I have not asked you any question. Go ahead.

Mr. SMITH of Iowa. I mean the question propounded here upon the floor this morning; not the question by Judge FOX. I will answer that question.

Mr. FOX. I have not asked you a question.

Mr. SMITH of Iowa. I am answering the question propounded here before this morning.

Mr. FOX. But I have not asked you anything.

Mr. SMITH of Iowa. I have repeatedly stated that I am not answering the gentleman's question.

Mr. HENRY C. SMITH. The gentleman declines to ask a question. [Laughter.]

Mr. SMITH of Iowa. I am answering the question propounded

here this morning as to how you know that 50 of these 100 votes were not included in the 274. I want to answer that question. Because these returns, certified upon the honor of these reputable Democratic officers of election, state that the total was 374; and if 274 were counted as valid, and 100 were questioned or rejected, and 50 of that 100 were included in the first 274, then there were not 374 in the aggregate.

Mr. WHEELER. Will the gentleman pardon me——

Mr. SMITH of Iowa. I wanted to yield to my friend Judge FOX, if he wishes to ask a question.

Mr. FOX. I will ask you if the same certificate that you contend for is sufficient in this case, was it not in the case of Anderson against Lickens, and the court said it was not sufficient, for such a true statement as required by the statute must also be in the record.

Mr. SMITH of Iowa. I will take pleasure in answering that.

Mr. FOX. Was not the identical general return in the case of Anderson against Likens in the record that is in the case of Moss against Rhea?

Mr. SMITH of Iowa. I will answer that as best I can.

Mr. FOX. It is a categorical question.

Mr. SMITH of Iowa. I do not want to answer it in a categorical way. I want to answer it in my own way, if I may have that privilege. This general certificate may be sufficient in some cases and insufficient in others, and I will show you how. If there were 250 votes——

Mr. FOX. Will you not answer the question?

Mr. SMITH of Iowa. Let me proceed as I am.

Mr. FOX. You decline to answer it, then?

Mr. SMITH of Iowa. No; I do not. You will be fully answered in a moment.

Mr. MANN. If the gentleman listened to me this morning, I answered the question, and he ought to be satisfied.

Mr. FOX. Will you not admit that return is in the case of Anderson *v.* Likens?

Mr. SMITH of Iowa. In the same form?

Mr. FOX. Yes; in the record.

Mr. SMITH of Iowa. In the same form?

Mr. FOX. In the same form—in the statutory form.

Mr. SMITH of Iowa. I will admit——

Mr. FOX. Made out exactly according to the blank that is set out in the statutes of Kentucky.

Mr. SMITH of Iowa. I will admit that it appears in Anderson *v.* Likens in the same form, but not in the same relation to the facts in the case; and now, if the gentleman had waited, I would have explained that a moment ago. If the record shows 250 votes counted as valid, and it shows that there are 50 questioned votes included in that and 50 rejected votes, and the 100 questioned and rejected are bunched together in the same canvas bag, there is no method of distinguishing which were questioned and which were rejected.

Then this general certificate is not sufficient to comply with this provision of the statute to which the attention of the House has been so often called this day; but if the record shows that the votes that were counted as valid, added to those that were both questioned and rejected, makes the exact aggregate number of votes cast in that precinct, then it conclusively appears, if the certificate be true, that every ballot classed as questioned or rejected was, in fact, rejected.

Mr. WHEELER. Will the gentleman permit me to interrupt him there?

Mr. SMITH of Iowa. Yes; certainly.

Mr. WHEELER. The gentleman's argument would be true if there was but one race in which balloting was being done, but in this particular case the citizens of Kentucky were voting a blanket ticket for everything from constable to governor.

Mr. SMITH of Iowa. I am glad that you asked me that question.

Mr. WHEELER. I am glad you gave me the opportunity to do so.

Mr. SMITH of Iowa. I might have overlooked that if you had not asked me.

Mr. WHEELER. I desire to direct your attention to this point, that if 10 voters had cast their ballots for county judge, those 10 ballots would have been certified to as cast, while 10 of the ballots that were returned as questioned might have been also counted in the Congressional race, and offset those that were counted only in the county judge's race in footing up the total amount of ballots passed.

Mr. SMITH of Iowa. I will try to answer that. The law of Kentucky, as you know, provides that the ballots for the precinct shall be bound in a book.

Mr. WHEELER. Yes.

Mr. SMITH of Iowa. And it provides that the judges and other officers of election shall account for every ballot that they receive in that book, does it not?

Mr. WHEELER. That is true.

Mr. SMITH of Iowa. That is true. When they come to make up this statement we are talking about, it is not a statement of votes cast for candidates; it is a statement of what became of the ballots in that book, and you know it.

Mr. WHEELER. That is just exactly right.

Mr. SMITH of Iowa. And they state that of the ballots in that book—400, for instance—200 were counted as valid.

Mr. WHEELER. That is right.

Mr. SMITH of Iowa. That 150 were rejected or questioned, and 50 were destroyed because not used.

Mr. WHEELER. But if my friend will permit me, if a ballot is cast for only one man and it is a legal ballot, it is counted in the sum total as a good ballot, and you can not tell whether it has been rejected or counted in the Congressional race, in the Presidential race, or in the county race.

Mr. SMITH of Iowa. A ballot is either good or bad as a whole ballot. It may be that a voter has failed for some reason to vote for some one candidate.

Mr. WHEELER. Yes.

Mr. SMITH of Iowa. And he may have voted for other candidates; but the ballot as a ballot is either a valid ballot or not a valid ballot.

Mr. WHEELER. I agree entirely to that.

Mr. SMITH of Iowa. And it is so reported by the election officers of the precinct.

Mr. WHEELER. And it is for that reason that we contend that when you take the total footings that may have been cast for one candidate or a dozen candidates, upon which to hypothecate this calculation, and show how many of those ballots were questioned and rejected or questioned and counted, it is absolutely fallacious, because you are assuming that every voter in Kentucky voted the entire Democratic or entire Republican ticket.

Mr. SMITH of Iowa. I beg your pardon. I am simply turning to these returns, which show there were a certain number of votes counted as valid, and a certain number counted as questioned or rejected, and a certain number that were not used, and the aggregate equals the total number of tickets furnished to the judges of the precinct. And therefore I say those thus reported as rejected or questioned can not have been counted as valid or the statement is false.

Mr. FOX. Before my friend proceeds, will it bother him for me to ask him a question?

Mr. SMITH of Iowa. It does not bother me at all, except that it uses up my time very rapidly.

Mr. FOX. I dislike to interrupt the gentleman for that reason, and I have refrained heretofore; but suppose that the return from the Electric Light precinct, for instance, shows that there are 100 questioned or rejected ballots. Admitting that that is sufficient to show that there were 100 rejected ballots, for the sake of argument, how does it identify the rejected ballots?

Mr. SMITH of Iowa. I do not say it identifies the rejected ballots.

Mr. FOX. Wait a minute. The contention is on our side that the true statement required by the statute to accompany rejected ballots is necessary to identify the rejected ballots, not to show how many there were, but that without that true statement being made there is nothing in the record to identify the rejected ballots. It is true, perhaps, that the general returns show that there were 100 questioned or rejected ballots; but where are they, and how are you going to find out what they are? What points to them, what identifies these ballots in the record as the rejected ballots?

Mr. SMITH of Iowa. The law requires them to seal up those rejected ballots in a canvas sack, does it not?

Mr. FOX. Certainly.

Mr. SMITH of Iowa. And as a matter of fact the officer to whom these ballots were returned by your Democratic officers swears that these are the ones they did return as the rejected ballots.

Mr. FOX. It was not a Democratic officer. Mr. Edley was a Republican officer.

Mr. SMITH of Iowa. I did not say that the witness was a Democrat.

Mr. FOX. Then I want to call your attention——

Mr. SMITH of Iowa. I said the custodian who received them from your Democratic officer swore that the ballots he received are the ones which are here.

Mr. FOX. I say Mr. Edley swore, and he is the only man that knows anything about it, that he was the custodian, and he was a Republican officer; and there is nothing on these sacks, except the one from Electric Light precinct, to identify them as coming from anywhere.

Mr. SMITH of Iowa. I did not say that the county clerk was a Democrat.

Mr. FOX. They are just dumped into this record without any sort of mark to identify them. They are not even identified as exhibits by the commissioner who took the depositions.

Mr. SMITH of Iowa. I say the clerk, the custodian of those

ballots, testified that your Democratic officials turned them in as rejected ballots.

Mr. FOX. No; he did not.

Mr. SMITH of Iowa. That is the effect of his testimony.

Mr. FOX. Well, as you read it.

Mr. SMITH of Iowa. Yes; as I read it. Now, I have said something about this Kentucky statute and something about the decision of the supreme court of Kentucky. I claim, first, that under the statute, and then, second, I claim under the decision of the supreme court, these ballots are admissible; and I claim they are admissible even in defiance of the statute and in defiance of the decision of the supreme court of Kentucky. I propose to put it on both grounds, and I feel that it may be well to read even to our Democratic friends the provisions of the Constitution of the United States upon this subject.

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof.

Does that provide that the legislature of any State can prescribe the rules of evidence which shall govern this judicial body in sitting and trying contested-election cases? Does the Constitution, when it says—

That the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof,

confer authority to enact rules of evidence for the Government of this judicial tribunal?

Each House shall be the judge of the elections, returns, and qualifications of its own members.

Is this House, sitting in the exercise of its high judicial functions, to be bound and limited by rules of evidence derogatory of the common law enacted by the legislature of the Commonwealth of Kentucky? I want to read an authority upon that subject. This is from George W. McCrary, of Iowa, who was once chairman of the Committee on Elections of this House. His work upon the subject of elections is certainly the most able, the most learned, and the most scholarly of any text-book upon that subject in the English tongue. He made a report to this House upon the very subject now under discussion.

Mr. SMITH of Kentucky. What page do you read from?

Mr. SMITH of Iowa. It is the case of Norris against Handley, from the Third Congressional district of the State of Alabama, reported in Smith, page 72, the portion of it I desire to read:

The statute of Alabama, defining the powers and duties of the board of county canvassers, or supervisors of elections, provides as follows:

"That it shall be the duty of the board of supervisors of elections, upon good and sufficient evidence that fraud has been perpetrated, or unlawful or wrongful means resorted to to prevent electors from freely and fearlessly casting their ballots, to reject such illegal or fraudulent votes cast at any such polling place, which rejection so made as aforesaid shall be final unless appeal is taken within ten days to the probate courts."

The gentlemen say that merely the failure of the judges of elections of Kentucky to certify is final to this House, unless an appeal is taken to the court of Kentucky upon mandamus.

Another section provides that this "board of supervisors of elections" shall be composed of the judge of probate, sheriff, and clerk of the circuit court in each county.

In the opinion of the committee, it is not competent for the legislature of a State to declare what shall or shall not be considered by the House of Representatives as evidence to show the actual votes cast in any district for a member of Congress, much less to declare that the decision of a board of county canvassers, rejecting a given vote, shall estop the House from further inquiry. The fact, therefore, that no appeal was taken from the decision of the board of canvassers, rejecting the vote of Girard precinct can not preclude the House from going behind the returns and considering the effect of the evidence presented. From this evidence we conclude that box No. 1 was improperly rejected by the board.

That report was adopted in this House, and I am a little surprised to see our Democratic friends are taking a contrary position. I want to read a little more from the Constitution of the United States:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

The Constitution thus confers upon the State, as an entity, the absolute power to chose electors for President and Vice-President; and yet twenty-five years ago, when the Republicans were insisting in a Presidential contest that the Congress could not go behind the face of the returns from a State, our friends set up a cry of fraud and insisted that Congress had that power. How does it come, as we had the right, as you said then, to go behind the returns to say who were chosen electors for President and Vice-President for the whole State, that we are to be bound absolutely by the rules of evidence of the States in determining who has been elected by the people of a State to a seat on the floor of this House?

Mr. FOX. Does my friend think that the regulation of a statute requiring a certain certificate to accompany the ballots is a rule of evidence?

Mr. SMITH of Iowa. You say that the court can not entertain any evidence except that prescribed by the law of Kentucky. That is a part of your contention; that it is simply a rule of evidence. I say that it is a rule of evidence, and perhaps more than a rule of evidence. I say that you propose to nullify the election by a law of the State which you claim fixes and limits the evidence identifying the ballots, and I insist the Constitution never conferred on the State authority thus to govern and control this House in the exercise of its judicial functions.

Now, as a matter of fact, this whole election was in the charge of the partisans of this contestee. They conducted the election; they made the returns. We have got here what his partisans returned as rejected ballots. They show that he was not elected a member of this House. And we have produced the evidence of the custodian who received these ballots directly from his partisans appointed under the Goebel law, that law which was repealed before the election, but which the legislature deemed it wise and expedient to keep in force until after the election, providing that the repeal should take effect after this thing had been consummated.

Now, assuming, then, first, that we have complied with the Kentucky law, second, that if we have not complied with the Kentucky law, if we have identified these ballots, that is all that is necessary under the Constitution, I pass to a brief consideration of this case on one or two other propositions involved.

It appears that these Goebel law officials systematically passed out the ballots without the initials of the clerk on them. Then they took them back and put them in the ballot box, and then when they came to count the votes rejected them. It is now contended that because the law said the ballots should not be deposited without the initials of the clerk, that that was a proper exercise of the power of the election boards.

I assert, without fear of successful contradiction, that the overwhelming weight of authority is that where a law provides that a ballot under certain circumstances shall not be counted, that is mandatory; where the law provides that under these circumstances it shall not be received, it must be counted if it is received. This very question was recently before the supreme court of the State of Missouri, and I call attention to the opinion of that court in the case of Hehl against Guion, 55 Southwestern Reporter, page 1036, in which the court specifically lays down the proposition that where the law provides that without the initials the ballot shall not be received; if it is received, the voter can not be cheated of his right of suffrage by rejection of the ballot after its receipt. Numerous authorities are collated on the same subject and on the same side.

Mr. FOX. Will the gentleman allow me an interruption?

Mr. SMITH of Iowa. Certainly.

Mr. FOX. Has not another branch of the Missouri supreme court decided exactly the opposite?

Mr. SMITH of Iowa. Yes; before this case.

Mr. FOX. About the same time?

Mr. SMITH of Iowa. Just before this case; and that was a minority decision, and this was the majority of the court.

Mr. FOX. It was the full court, but a different branch of the supreme court.

Mr. SMITH of Iowa. No; I beg the gentleman's pardon——

Mr. FOX. There are several branches of the supreme court.

Mr. SMITH of Iowa. I know there are several branches, but this decision that I refer to was a four-judge branch and yours was a three-judge branch. [Laughter.]

Mr. FOX. This was an appellate division.

Mr. SMITH of Iowa. Yes; but this was a four-judge division and yours was a three-judge division. Yours was the first case and this was the last case. [Laughter.]

Mr. FOX. This was not the last case. The gentleman is mistaken about that.

Mr. SMITH of Iowa. The last case from the court on that subject.

Now, Mr. Speaker, I do not care to further discuss the rejection of these ballots where they appear here in these volumes from page to page. The gentleman from Illinois [Mr. MANN] has ably presented that subject. It is a fact that has been called clearly to the attention of the House that there was no candidate for Congress upon these tickets upon which the blots were made.

Even if there had been a specific cross on the Republican ticket and the Social Labor ticket, under these circumstances, under the weight of authority, the ballots should have been counted for the contestant and not thrown out. The weight of authority is that where a man marks two ballots, under the Australian system—two tickets—that he does vote for all such candidates as are running for office where there is no candidate for the same office upon the other ticket.

Mr. MANN. Will the gentleman pardon me?

Mr. SMITH of Iowa. Certainly.

Mr. MANN. I quite agree with the gentleman about the law, especially upon further investigation of it. But the gentleman understands that in figuring the majority of 21 which the committee reports, they did not include these ballots, and if we did include them, it would make the majority considerably larger.

Mr. SMITH of Iowa. I am well aware that they were not included. The truth is that in this case if the ballots were counted—as they should have been counted under the weight of authority—if in this case we had been able to go into the precincts where the certificate was not full enough by lack of evidence indicating how many had been rejected, the majority of the contestant would have been several times what it is by the report of the committee. But absolutely every ballot has been rejected by the committee where it was not conclusive that the contestant was entitled to have it counted in his behalf.

This Kentucky legislation provides for a system of ballots with two stubs, and it provides that the last stub shall be detached by the officers of the election after the vote has been prepared by the elector. In a number of instances the stub was not thus detached as required by the statute; and the judges, having neglected their duty in this respect, rejected the votes, thereby benefiting this contestee. But the same authorities to which I have already referred hold that ballots of that kind must be counted. That has been the principle governing cases of this kind—that where the voter has on his part complied with the law, the judges of election can not by their misconduct in depositing his ballot without the preliminary steps having been taken, defraud him of the right of suffrage.

Now, Mr. Speaker, I have discussed this case so far as I intend to do. I believe the evidence abundantly shows the election of this contestant; and while I have the utmost regard and respect for the gentleman from Kentucky [Mr. Rhea], my colleague upon the Committee on Banking and Currency, I trust that he does not want to sit here as the beneficiary of a system under which, according to his present contention, these ballots were first unlawfully excluded by the judges of election, who then, as he contends, failed to furnish the statutory evidence of that fact. I trust that the gentleman from Kentucky would not be willing, as the result of such a proceeding, to hold the seat to which Mr. Moss was justly elected by the people of the Third district of Kentucky.

Mr. MANN. I move that the House do now adjourn.

Several MEMBERS. Oh, wait a moment.

Mr. MANN (after a pause). Mr. Speaker, I withdraw the motion for the present.

The SPEAKER. Does the gentleman from Illinois desire to close up this matter for to-day?

Mr. MANN. We are through with the discussion for to-day.

LEAVE OF ABSENCE.

Mr. BARTHOLDT, by unanimous consent, obtained leave of absence for one week, on account of important business.

MARINE HOSPITAL AT BUFFALO.

The SPEAKER laid before the House the amendment of the Senate to the bill (H. R. 3148) for a marine hospital at Buffalo, N. Y.

The amendment of the Senate was read, as follows:

In line 1, page 2, strike out "for all purposes."

Mr. ALEXANDER. I move that the House concur in this amendment.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested:

S. 3653. An act for the protection of the President of the United States, and for other purposes.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 4366) granting a pension to John Y. Corey.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 4488) granting an increase of pension to Selden E. Whitcher.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 11145. An act granting an increase of pension to Mary F. Key.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 3148. An act for a marine hospital at Buffalo, N. Y.;

H. R. 10530. An act to repeal war-revenue taxation, and for other purposes; and

H. R. 10404. An act granting a pension to John Y. Corey.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 3653. An act for the protection of the President of the United States, and for other purposes—to the Committee on the Judiciary.

Mr. MANN. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 4 o'clock and 14 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for the Rock Island Arsenal—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of Agriculture submitting an estimate of deficiency appropriation for printing and binding for the Department—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of War, relating to the claim of Capt. S. J. B. Schindell—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of War, transmitting a copy of a report of tests of iron and steel and other material for industrial purposes, at Watertown Arsenal, during the year ended June 30, 1901—to the Committee on Manufactures, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. LACEY, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 11658) to ratify an agreement with the Indians of the Crow Reservation, in Montana, and making appropriations to carry the same into effect, reported the same with amendments, accompanied by a report (No. 1167); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10173) granting an increase of pension to Richard Trist, late of Company A, First Wisconsin Volunteer Infantry, reported the same with amendments, accompanied by a report (No. 1123); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11638) granting an increase of pension to Samuel Hyman, reported the same with amendments, accompanied by a report (No. 1124); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11894) granting a pension to Hannah A. Timmons, reported the same with amendments, accompanied by a report (No. 1125); which said bill and report were referred to the Private Calendar.

Mr. DARRAGH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11798) granting an increase of pension to Ole Oleson, reported the same with amendment, accompanied by a report (No. 1126); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6645) granting an increase of pension to Ann E. Austin, reported the same with amendment, accompanied by a report (No. 1127); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12129) granting a pension to Minnie M. Rice, reported the same with amendment, accompanied by a report (No. 1128); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2857) granting an increase of pension to Francis J. Haughton, reported the same with amendments, accompanied by a report (No. 1129); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8721) granting an increase of pension to Joseph Westbrook, reported the same with amendment, accompanied by a report (No. 1130); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7116) granting an increase of pension to Alexander F. McConnell, reported the same without amendment, accompanied by a report (No. 1131); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9370) granting a pension to John J. Wolfe, reported the same with amendments, accompanied by a report (No. 1132); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5170) granting a pension to Frederick Wright, reported the same with amendments, accompanied by a report (No. 1133); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9458) granting an increase of pension to Adolph Becker, reported the same with amendment, accompanied by a report (No. 1134); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9378) granting a pension to Clara B. Townsend, reported the same with amendment, accompanied by a report (No. 1135); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10782) granting a pension to Ole Steensland, reported the same with amendment, accompanied by a report (No. 1136); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11496) granting a pension to Henry S. Foster, reported the same with amendment, accompanied by a report (No. 1137); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1742) granting an increase of pension to Alonzo Lewis, reported the same without amendment, accompanied by a report (No. 1138); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11662) granting an increase of pension to Albion P. Stiles, reported the same with amendment, accompanied by a report (No. 1139); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1455) granting an increase of pension to Aaron S. Gatliff, reported the same with amendments, accompanied by a report (No. 1140); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5111) granting a pension to James G. Bowland, reported the same with amendments, accompanied by a report (No. 1141); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8355) granting a pension to Robert C. Ballard, reported the same with amendment, accompanied by a report (No. 1142); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7982) granting an increase of pension to William T. Peterson, reported the same with amendments, accompanied by a report (No. 1143); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11112) granting a pension to S. Agnes Young, reported the same with amendments, accompanied by a report (No. 1144); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9658) granting an increase of pension to Robert Stewart, reported the same with amendments, accompanied by a report (No. 1145); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9883) granting an increase of pension to William Kelley, reported the same with amendment, accompanied by a report (No. 1146); which said bill and report were referred to the Private Calendar.

Mr. DARRAGH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10679) granting an increase of pension to Charlotte E. Baird, reported the same with amendment, accompanied by a report (No. 1147); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1292) for the relief of J. P. O'Brien, reported the same with amendments, accompanied by a report (No. 1148); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11890) granting an increase of pension to James Brown, reported the same with amendments, accompanied by a report (No. 1149); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4238) granting a pension to Emsley Kinsauls, reported the same with amendments, accompanied by a report (No. 1150); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12054) granting a pension to Elizabeth A. Burrill, reported the same without amendment, accompanied by a report (No. 1151); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8003) granting an increase of pension to Louisa M. MacFarlane, reported the same with amendments, accompanied by a report (No. 1152); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12012) granting an increase of pension to Walter C. Tuttle, reported the same with amendments, accompanied by a report (No. 1153); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12697) granting a pension to M. C. Rogers, reported the same with amendment, accompanied by a report (No. 1154); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12395) granting a pension to Ruth Bartlett, reported the same with amendment, accompanied by a report (No. 1155); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12774) granting an increase of pension to John M. Brown, reported the same with amendments, accompanied by a report (No. 1156); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8341) granting a pension to Hannah C. Chase, reported the same with amendment, accompanied by a report (No. 1157); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5695) granting an increase of pension to John M. Seydel, reported the same with amendment, accompanied by a report (No. 1158); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6721) granting an increase of pension to Andrew Ray, reported the same with amendments, accompanied by a report (No. 1159); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9290) granting a pension to Francis L. Ackley, reported the same with amendments, accompanied by a report (No. 1160); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8794) granting a pension to Henry I. Smith, reported the same with amendments, accompanied by a report (No. 1161); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4304) granting a pension to John S. Nelson, reported the same without amendment, accompanied by a report (No. 1162); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4413) granting an increase of pension to Martha A. Greenleaf, reported the same without amendment, accompanied by a report (No. 1163); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to

which was referred the bill of the Senate (S. 2006) granting an increase of pension to James Lehew, reported the same without amendment, accompanied by a report (No. 1164); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1289) granting an increase of pension to Julius W. Clark, reported the same without amendment, accompanied by a report (No. 1165); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3518) granting a pension to Nadine A. Turchin, reported the same without amendment, accompanied by a report (No. 1166); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4486) granting an increase of pension to Myra W. Robinson, reported the same without amendment, accompanied by a report (No. 1168); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. MONDELL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 1861) to remove the charge of desertion from the military record of Abner H. Goyt, reported the same adversely, accompanied by a report (No. 1169); which said bill and report were laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 9233) for the relief of John B. Burns, alias John B. Wilson, reported the same adversely, accompanied by a report (No. 1170); which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills; which were thereupon referred as follows:

A bill (H. R. 7919) to provide American register for steamer *Eagle*—Committee on Interstate and Foreign Commerce discharged, and referred to the Committee on the Merchant Marine and Fisheries.

A bill (H. R. 11597) granting a pension to Sarah E. Compton—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 9226) granting a pension to Elizabeth I. Ogden—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SPARKMAN: A bill (H. R. 12906) to consummate the purchase of additional land adjoining the naval station, Key West, Fla.—to the Committee on Naval Affairs.

By Mr. BLACKBURN: A bill (H. R. 12907) for the construction of a macadam road from the public square in the city of Salisbury, N. C., to the national cemetery—to the Committee on Military Affairs.

By Mr. MERCER: A bill (H. R. 12908) for the relief of certain officers of the Volunteer Army, and for other purposes—to the Committee on War Claims.

By Mr. GAINES of Tennessee: A bill (H. R. 12909) for the relief of tobacco growers—to the Committee on Ways and Means.

By Mr. SPARKMAN: A bill (H. R. 12910) to increase the limit of cost of the building heretofore authorized at Tampa, Fla., for use of the United States court, post-office, and custom-house there—to the Committee on Public Buildings and Grounds.

By Mr. POU: A bill (H. R. 12911) authorizing the President to suspend the collection of the import duties upon certain articles—to the Committee on Ways and Means.

By Mr. FLETCHER: A bill (H. R. 12912) to authorize the Secretary of War to acquire additional lands at Fort Snelling, Minn.—to the Committee on Military Affairs.

By Mr. MONDELL: A bill (H. R. 12913) to authorize a resurvey of certain lands in the State of Wyoming, and for other purposes—to the Committee on the Public Lands.

By Mr. MEYER of Louisiana: A bill (H. R. 12938) to authorize the New Orleans and Mississippi Midland Railroad Company of Mississippi to build and maintain a railway bridge across Pearl River—to the Committee on Interstate and Foreign Commerce.

By Mr. NAPHEN: A memorial requesting Congress to provide for an investigation by the United States Government of the feasibility of constructing a canal between Weymouth Fore River and Taunton River—to the Committee on Railways and Canals.

By Mr. BELL: A memorial resolution of the Colorado senate expressing sympathy for the Boers—to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills of the following titles were introduced and severally referred as follows:

By Mr. ALLEN of Maine: A bill (H. R. 12914) granting an increase of pension to Cynthia J. Shattuck, widow of George F. Shattuck—to the Committee on Invalid Pensions.

By Mr. BLACKBURN: A bill (H. R. 12915) for the relief of M. L. Skidmore—to the Committee on Claims.

By Mr. BULL: A bill (H. R. 12916) for the relief of E. W. and A. Cross, of Wakefield, R. I.—to the Committee on Claims.

By Mr. GREENE of Massachusetts: A bill (H. R. 12917) to remove the charge of desertion against the name of Richard Clifford, Company I, One hundred and twenty-first New York Infantry—to the Committee on Military Affairs.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 12918) for the relief of the estate of Josiah Turner—to the Committee on Claims.

Also, a bill (H. R. 12919) for the relief of the estate of Bedford Brown—to the Committee on Claims.

By Mr. MOON: A bill (H. R. 12920) for the relief of James Moore—to the Committee on Military Affairs.

By Mr. MONDELL: A bill (H. R. 12921) granting an increase of pension to Mary E. Adams—to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 12922) for the relief of the estate of the late Thomas C. Fuller—to the Committee on Claims.

Also, a bill (H. R. 12923) for the relief of the estate of the late Jesse R. Stubbs—to the Committee on Claims.

By Mr. HENRY C. SMITH: A bill (H. R. 12924) granting a pension to Lizzie S. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12925) granting an increase of pension to Israel C. Drew—to the Committee on Invalid Pensions.

By Mr. WM. ALDEN SMITH: A bill (H. R. 12926) for the relief of John C. Bishop—to the Committee on Military Affairs.

Also, a bill (H. R. 12927) for the relief of Charles W. Irwin—to the Committee on Military Affairs.

Also, a bill (H. R. 12928) for the relief of Lebens S. Landon—to the Committee on Military Affairs.

By Mr. TATE: A bill (H. R. 12929) for the relief of Moses Gillespie—to the Committee on Pensions.

Also, a bill (H. R. 12930) for the relief of Theodore Cole—to the Committee on Invalid Pensions.

By Mr. VAN VOORHIS: A bill (H. R. 12931) granting an increase of pension to Alexander Jones—to the Committee on Invalid Pensions.

By Mr. WARNER: A bill (H. R. 12932) granting a pension to Elizabeth D. Harding—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12933) granting an increase of pension to George W. McConkey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12934) granting an increase of pension to William V. Carr—to the Committee on Invalid Pensions.

By Mr. YOUNG: A bill (H. R. 12935) granting a pension to Susannah Ryan—to the Committee on Pensions.

Also, a bill (H. R. 12936) granting a pension to Reuben M. Mercer—to the Committee on Pensions.

By Mr. HEMENWAY: A bill (H. R. 12937) granting an increase of pension to Patrick Clair—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. APLIN: Resolution of Merrill Post, No. 419, Grand Army of the Republic, Department of Michigan, favoring the construction of war vessels in the Government navy-yards—to the Committee on Naval Affairs.

Also, resolutions of Cigar Makers' Union No. 452, of Petoskey, Mich., favoring legislation to exclude Chinese laborers from the United States and insular possessions—to the Committee on Foreign Affairs.

By Mr. BELL: Resolutions of Bricklayers' Union No. 2, of Pueblo, Colo., favoring a reenactment of the Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, petition of American Cattle Growers' Association of Seibert, Colo., opposing the leasing of public lands—to the Committee on Public Lands.

By Mr. BLACKBURN: Petition of M. L. Skidmore, for the

payment of a claim for lost stamps for internal-revenue packages—to the Committee on claims.

By Mr. BOWERSOCK: Resolutions of the Trades League of Philadelphia, Pa., favoring an amendment to the river and harbor bill—to the Committee on Rivers and Harbors.

Also, resolution of Carpenters' Union No. 942, of Fort Scott, Kans., favoring an educational test for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BRICK: Petition of Brotherhood of Railroad Trainmen, Lodge No. 23, of Elkhart, Ind., favoring an educational restriction on immigration—to the Committee on Immigration and Naturalization.

Also, petition of Group No. 193, South Bend, Ind., Polish Society, urging a monument at Washington to the memory of Count Pulaski, of the Revolutionary war—to the Committee on the Library.

By Mr. BULL: Resolution of Brewery Workers' Union No. 166, of Providence, R. I., in favor of the Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, resolutions of Engineers' Union No. 616, of Providence, R. I., favoring restricted immigration—to the Committee on Immigration and Naturalization.

By Mr. BURKETT: Resolution of Board of Trade of Chicago, Ill., favoring House bill 8337 and Senate bill 3575, amending the interstate-commerce act—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Trades League of Philadelphia, Pa., for an amendment to the river and harbor bill so corporations, etc., may improve commercial channels at their own expense—to the Committee on Rivers and Harbors.

By Mr. BURLESON: Resolutions of Cattle Raisers' Association of Texas, indorsing Senate bill No. 3311, relating to the leasing of public lands for grazing purposes—to the Committee on the Public Lands.

Also, resolutions of same body, favoring a complete census of the live stock every five years—to the Select Committee on the Census.

Also, resolutions of same body, favoring the passage of House bill No. 6565, known as the Grosvenor pure-fiber bill—to the Committee on Ways and Means.

Also, resolution of the same body, favoring House bill 8337 and Senate bill 3575, amending the interstate-commerce act—to the Committee on Interstate and Foreign Commerce.

By Mr. CAPRON: Petition of citizens of Westerly, R. I., favoring the restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Woman's Christian Temperance Union of Rhode Island, in favor of legislation to abolish the regulation of vice in the insular possessions—to the Committee on Insular Affairs.

Also, petition of the Haskell Manufacturing Company, of Pawtucket, R. I., protesting against the ratification of the reciprocity treaties now pending—to the Committee on Ways and Means.

By Mr. CROMER: Resolutions of Bakers and Confectioners' Union No. 195, of Anderson, Ind., in favor of the exclusion of Chinese laborers—to the Committee on Foreign Affairs.

By Mr. DALZELL: Resolutions of General George H. Thomas Circle, No. 24, Ladies of Grand Army of the Republic, of Pittsburg (South Side), Pa., favoring a bill providing pensions to certain officers and men in the Army and Navy of the United States when 50 years of age and over, and increasing widows' pensions to $12 per month—to the Committee on Pensions.

Also, resolutions of the New Century Club, of Philadelphia, Pa., for securing a national forest reserve in the Appalachian Mountains—to the Committee on the Public Lands.

Also, resolution of the Trades League of Philadelphia, Pa., favoring amendment to the river and harbor bill—to the Committee on Rivers and Harbors.

Also, resolutions of Jersey Shore Division, No. 168, and Round Top Division, No. 153: Order of Railway Conductors of Vilas, Wilkesbarre, Connellsville, Philadelphia, and Derry Station, and Order of Railway Trainmen of Pittsburg, Pa., favoring the passage of the Hoar-Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. DRAPER: Petition of the Eight-Hour League of America, in support of a national eight-hour day—to the Committee on Labor.

By Mr. FOERDERER: Papers to accompany House bill 10951, for the relief of Mrs. Pauline M. Roberts—to the Committee on Invalid Pensions.

By Mr. FOSS: Petitions of Polish societies of Chicago, Ill., urging the passage of House bill No. 16, providing for the erection of a statue to the memory of Count Pulaski at Washington—to the Committee on the Library.

Also, resolution of the Trades League of Philadelphia, Pa., favoring amendment to the river and harbor bill—to the Committee on Rivers and Harbors.

Also, petitions of Association of Machinists Union No. 253, Chicago, Ill., favoring a further restriction of Chinese immigration—to the Committee on Foreign Affairs.

By Mr. GORDON: Papers to accompany House bill 12817, to amend the military record of John Rose—to the Committee on Military Affairs.

Also, papers to accompany House bill 12816, granting an increase of pension to John Dugan—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petitions of Central Reformed Presbyterian Church, of Allegheny; the First Pentecostal Church of Pittsburg, and Mount Washington Baptist Church, of Pittsburg, Pa., favoring an amendment to the Constitution making polygamy a crime—to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania: Petition of citizens of Berks County, Pa., favoring an amendment to the Constitution making polygamy a crime—to the Committee on the Judiciary.

Also, petition of Plumbers' Union No. 42, Reading, Pa., favoring the construction of war vessels at the Government navy-yards—to the Committee on Naval Affairs.

Also, petition of Stove Mounters' Union No. 42, Reading, Pa., favoring a further restriction of Chinese immigration—to the Committee on Foreign Affairs.

Also, petition of Penn Lodge, No. 172, of Reading, Pa., Brotherhood of Railway Trainmen, favoring an educational restriction on immigration—to the Committee on Immigration and Naturalization.

By Mr. GREENE of Massachusetts: Petition of Massachusetts Board of Trade, favoring the appointment of a commission to improve trade relations with China, and also for the adoption of the merit system in the appointment of consuls—to the Committee on Foreign Affairs.

Also, resolution of Bakers and Confectioners' Union No. 99, of Fall River, Mass., and Granite Cutters' Union, New Bedford, Mass., in favor of the extension of the Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, resolution of Group 536, of New Bedford, Mass., Polish Society, favoring the erection of a statue to the late Brigadier-General Count Pulaski at Washington—to the Committee on the Library.

By Mr. HASKINS: Resolutions of Granite Cutters' Union of Groton, Vt., favoring a reenactment of the Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, resolution of Painters and Decorators' Union of Montpelier, Vt., favoring restricted immigration—to the Committee on Immigration and Naturalization.

By Mr. HILL: Resolutions of Painters' Union of Greenwich, Conn., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HOLLIDAY: Resolutions of Carpenters' Union No. 205, of Terre Haute, Ind., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. KEHOE: Petition of sundry telegraph operators, favoring the passage of the Hoar-Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. KNOX: Resolutions of Bricklayers' Union No. 31, of Lowell, Mass., favoring a reenactment of the Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. LITTLEFIELD: Resolutions of Bricklayers and Plasterers' Union No. 1, of Lewiston, Me., favoring legislation to exclude Chinese laborers from the United States and insular possessions—to the Committee on Foreign Affairs.

By Mr. METCALF: Resolutions of Pacific Coast Marine Firemen's Union, of Sailors' Union of the Pacific, and of City Front Federation, of San Francisco, and of Eureka Branch of the Sailors' Union, of Eureka, Cal., favoring the enactment of section 39 of the Chinese-exclusion bill, H. R. 9330—to the Committee on Foreign Affairs.

Also, sundry petitions of 115 officers of the National Guard of California, favoring the passage of House bill (H. R. 11654) to increase the efficiency of the militia, and for other purposes—to the Committee on Militia.

Also, resolutions of Vallejo Lodge, No. 148, of Boiler Makers and Iron Ship Builders, of Vallejo, Cal.; of the Merchants' Exchange of Oakland, Cal., and of Brotherhood of Teamsters Local Union No. 85, and Sailors' Union of the Pacific, of San Francisco, Cal., favoring the exclusion of Chinese laborers and condemning the action of the Merchants' Exchange of San Francisco—to the Committee on Foreign Affairs.

Also, resolutions of Upholsterers' International Union No. 54, of Oakland, Cal.; of Black Diamond Bryan and Stevenson Club, of Black Diamond, Cal.; of Leather Workers' Union No. 17, of Benicia; of San Francisco Labor Council and Sailors' Union of the Pacific, of San Francisco; of Vallejo Lodge, No. 252, of United Brotherhood of Carpenters and Joiners; of Trades and Labor Council; of Typographical Union No. 389 and of Ship Keepers'

Protective Union No. 8970, of Vallejo; of Cigar Makers' International Union No. 253; of Oakland Typographical Union, No. 36; of Pacific Coast Union, No. 1; of Boiler Makers and Iron Ship Builders' Union No. 233; of Order of Railway Conductors, Golden Gate Division, No. 364, and of Retail Clerks' Association No. 47, all of Oakland, and petition of residents of Oakland, Cal., favoring the exclusion of Chinese laborers—to the Committee on Foreign Affairs.

Also, resolutions of Typographical Union, Teamsters' Union No. 70, District Council of Alameda County, Machinists' Union No. 284, and Locomotive Engineers' Union, all of Oakland, Cal.; Carpenters' Union No. 194, of Alameda; Leather Workers' Union No. 17, of Benicia; Typographical Union No. 389; Brewers' Union No. 11, and Local Union No. 376, all of Vallejo, Cal., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. MOON: Petition of Street Railroad Employees' Union No. 115, of Chattanooga, Tenn., favoring a further restriction of Chinese immigration—to the Committee on Foreign Affairs.

By Mr. MUTCHLER: Paper to accompany House bill No. 12517, to amend the military record of Isaac Sutton—to the Committee on Military Affairs.

By Mr. NAPHEN: Petition of Journeymen Plumbers' Union No. 12, Boston, Mass., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. NEVIN: Protest of C. H. Barton, of Dayton, Ohio, against the passage of Senate bill 1118—to the Committee on the Judiciary.

By Mr. PATTERSON of Tennessee: Resolutions of Cigar Makers' Union No. 266, of Memphis, Tenn., for an extension of the Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. RUMPLE: Resolutions of Hand in Hand Lodge, No. 183, Railroad Trainmen, Clinton, Iowa, favoring a further restriction of Chinese immigration—to the Committee on Foreign Affairs.

Also, resolutions of Federal Labor Union No. 6303, of Muscatine, Iowa, favoring the building of war ships in the navy-yards—to the Committee on Naval Affairs.

By Mr. RYAN: Resolutions of Bakers' Union No. 16, and Pattern Makers' Union, of Buffalo, N. Y., favoring restricted immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Eight-Hour League of America, in support of a national eight-hour day—to the Committee on Labor.

By Mr. HENRY C. SMITH: Resolutions of Bricklayers' Union No. 15, of Jackson, Mich., favoring legislation to exclude Chinese laborers from the United States and insular possessions—to the Committee on Foreign Affairs.

By Mr. SPARKMAN: Memorial of the State board of health of the State of Florida, requesting that the control of the maritime quarantine service of the ports of the island of Cuba be retained by the United States—to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS of Iowa: Affidavits to accompany House bill 8287, granting an increase of pension to Peter Johnson—to the Committee on Invalid Pensions.

By Mr. VAN VOORHIS: Papers to accompany House bill granting an increase of pension to Alexander Jones—to the Committee on Invalid Pensions.

Also, resolutions of Red Prince Lodge, No. 250, Knights of Pythias, and Byesville Lodge, No. 765, Independent Order of Odd Fellows, of Byesville, Ohio, favoring a further restriction of Chinese immigration—to the Committee on Foreign Affairs.

By Mr. WARNER: Resolution of Division 37, of Mattoon, Ill., Brotherhood of Locomotive Engineers, favoring the passage of the Hoar-Grosvenor anti-injunction bill—to the Committee on the Judiciary,

Also, resolutions of Barbers' Union No 95, of Bloomington, Ill., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WOODS: Petition of the National Guard of California, for the passage of House bill 9972—to the Committee on the Militia.

Also, petition of Confidence Miners' Union, No. 47, of Confidence, Cal., favoring restriction of immigration and the Chinese-exclusion act—to the Committee on Immigration and Naturalization.

By Mr. YOUNG: Petition of E. S. Garner, secretary, Philadelphia, Pa., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

Also, resolutions of the Alumnæ Association of the Girls' High and Normal Schools, of Philadelphia, Pa., for securing a national forest reserve in the Appalachian Mountains—to the Committee on the Public Lands.

Also, letter of S. B. Hedderson, of Philadelphia, Pa., in opposition to the passage of House bill 9352—to the Committee on Interstate and Foreign Commerce.

SENATE.

MONDAY, *March 24, 1902.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved. It is approved.

REPORT ON LEPROSY.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Surgeon-General of the Marine-Hospital Service, submitting a report of the medical officers appointed to investigate the origin and the prevalence of leprosy in the United States, and to report what legislation is necessary for the prevention of the spread of this disease; which, on motion of Mr. GALLINGER, was, with the accompanying papers, referred to the Committee on Public Health and National Quarantine, and ordered to be printed.

POSTAL SAVINGS BANKS IN PORTO RICO.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication addressed to the President pro tempore of the Senate, by Federico Degetau, resident commissioner from Porto Rico, inclosing resolutions, adopted by the executive council of Porto Rico, relative to the enactment of legislation by the Congress of the United States for the establishment of a system of postal savings banks in Porto Rico. The Chair suggests that the communication, together with the resolutions of the executive council, be printed, and referred to the Committee on Pacific Islands and Porto Rico. In the absence of objection it will be so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 3865) to establish light-houses at the mouth of Boston Harbor to mark the entrance to the new Broad Sound Channel.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 3148) for a marine hospital at Buffalo, N. Y.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 4488) granting an increase of pension to Selden E. Whitcher.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 4821) granting an increase of pension to Herbert A. Boomhower, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL W. SMITH, Mr. DARRAGH, and Mr. KLEBERG managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 12346) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. LODGE. I present certain resolutions of the legislature of Massachusetts relative to the feasibility of constructing a canal between Weymouth Fore River and Taunton River. I ask that they may be read and referred to the Committee on Commerce.

The resolutions were read, and referred to the Committee on Commerce, as follows:

Commonwealth of Massachusetts, in the year 1902. Resolutions requesting Congress to provide for an investigation by the United States Government of the feasibility of constructing a canal between Weymouth Fore River and Taunton River.

Resolved, That the general court of Massachusetts requests that the Congress of the United States shall take such action as will provide for an investigation by the United States Government of the feasibility of constructing a canal from Weymouth Fore River to Taunton River, by way of the city of Brockton, in this Commonwealth, and for a report thereon, to be made as speedily as possible to Congress.

Resolved, That copies of these resolutions be sent by the secretary of the commonwealth to the presiding officers of both branches of Congress, and also to the Senators and Representatives in Congress from this Commonwealth.

In house of representatives, adopted March 6, 1902.

In senate, adopted, in concurrence, March 11, 1902.

A true copy. Attest:

WILLIAM M. OLIN,
Secretary of the Commonwealth.

Mr. PLATT of New York presented a memorial of Typographical Union No. 62, American Federation of Labor, of Utica, N. Y., remonstrating against the adoption of certain amendments to the copyright law; which was referred to the Committee on Patents.

He also presented a memorial of Columbus Lodge, No. 401, International Association of Machinists, of Brooklyn, N. Y., remonstrating against the enactment of legislation granting more